

HOUSE REVENUE & TAXATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2008 Legislative Session

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IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2008 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and the text of the pending rules with an explanation of the reasons for the change:

Section 286 Idaho Code reference was published as Sections 63-3027 and 63-3030(4), Idaho Code, and should have been Sections 63-3027 and 63-3030(a)(4), Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rules was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 244 through 274.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7530.

DATED this 1st day of November, 2007.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
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P.O. Box 36
Boise, ID 83722-0410

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Docket No. 35-0101-0701
PENDING RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 006: Income Tax Rule 006 is being amended to identify the Multistate Tax Commission (MTC) Web site as the location where the MTC regulations incorporated by reference can be accessed. This should be a more reliable source to reference for access to the information since the MTC document, "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States" can be difficult to locate and may no longer be available.

Rule 031: Amend Income Tax Rule 031 to include information on what federal forms must be included in the Idaho return filed by a nonresident alien. These include Form 8843 (Statement for Exempt Individuals and Individuals With a Medical Condition) and Form 1042-S (Foreign Person's U.S. Source Income Subject to Withholding).

Rule 032: Section 63-3013, Idaho Code, provides a safe harbor exception to being a resident in Idaho. This provision should not be applied to military individuals due to federal law in the Servicemembers Civil Relief Act. Income Tax Rule 032 includes language that the safe harbor applies to a member of the armed forces so the rule is being amended to remove this information. To address questions regarding the commissioned corps of the National Oceanic and Atmospheric Administration and commissioned corps of the Public Health Service, the rule is being amended to discuss who qualifies as a servicemember under the federal law and who qualifies for the Idaho deduction in Section 63-3022(h), Idaho Code, because there are differences.

Rule 075: Amend Income Tax Rule 075 to add the table for the income tax brackets and rates for calendar year 2007.

Rule 108: Amend Income Tax Rule 108 consistent with House Bill 239, which was passed by the 2007 Idaho Legislature. It amended Section 63-3022, Idaho Code, to require a taxpayer to include in Idaho taxable income the amount transferred from an Idaho college savings account to a qualified tuition program operated by a state other than Idaho.

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Rule 121: Amend Income Tax Rule 121 to better clarify the calculations related to the state tax addback that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 125: Promulgate new Income Tax Rule 125 to address issues related to bonus depreciation. House Bill 13, which was passed by the 2007 Idaho Legislature, amended Section 63-3022O, Idaho Code, to change the provisions regarding bonus depreciation. The new rule helps to explain how the legislative changes are to be applied.

Rule 255: Amend Income Tax Rule 255 to better clarify the calculations related to the proration of exemptions and deductions of part-year residents and nonresidents that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 275: Amend Income Tax Rule 275 consistent with House Bill 15, which was passed by the 2007 Idaho Legislature. It amended Section 63-3026A, Idaho Code, to clarify when nonresident individuals are not required to pay Idaho income tax on investment income from Idaho investment partnerships. Change Subsection 275.02 from qualifying entity to qualified investment partnership and identify the qualifying criteria. Remove Subsection 275.03, which addressed investment in securities and is no longer relevant.

Rule 285, 286: Promulgate new Income Tax Rules 285 and 286 to address S corporations. House Bill 17, which was passed by the 2007 Idaho Legislature, amended Sections 63-3025 and 63-3025A, Idaho Code, to clarify the tax due by S corporations on built-in gains and excess net passive income. New Rule 285 addresses such issues as the tax on S corporations, when the minimum tax is due, the application of credit carryovers if an S corporation was previously a C corporation, the interaction between the tax on built-in gains/excess net passive income and the tax due by an S corporation when the election under Section 63-3022L, Idaho Code, is made, and how Idaho treats qualified subchapter S subsidiaries (QSSSs). New Rule 286 addresses multistate issues with regard to S corporations including the application of allocation and apportionment, exceptions to using the apportionment formula, information to provide to shareholders, protection under Public Law 86-272, and QSSSs.

Rule 582: Amend Income Tax Rule 582 consistent with House Bill 141, which was passed by the 2007 Idaho Legislature. It amended Section 63-3023, Idaho Code, to repeal Subsection (b), which exempted from the Idaho income tax banks and financial institutions that did not maintain an office in Idaho and carried on only limited activity in Idaho. Subsection 582.05 referenced Subsection 63-3023(b) and discussed the calculation of the apportionment factor attributes of such exempted taxpayers. Subsection 582.05 is no longer applicable and is being removed from the rule.

Rule 641: Amend Income Tax Rule 641 so that information related to intercompany eliminations for a water's edge combined report is consistent with language in Rule 600 (that they are made to the extent necessary to properly reflect combined income and to properly compute the apportionment factors of the water's edge combined group).

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Rule 700: Amend Income Tax Rule 700 to better clarify the calculations related to the credit for tax paid to another state that require rounding. The rule needs to be modified so that the text of the rule more clearly matches the calculations required.

Rule 714: Amend Income Tax Rule 714 to more clearly explain the options for computing ITC on movable property. Clarify that a taxpayer can only claim ITC on the amount correctly included in his property factor numerator and that the taxpayer can not claim ITC on an overstated value by using the MTC special industry regulations when the taxpayer does not qualify as a special industry.

Rule 746: Amend Income Tax Rule 746 to remove references to Paragraph 745.04.a., which was removed from Rule 745 in 2006 rulemaking.

Rules 765, 766, 767, 799: House Bill 177, passed by the 2007 Idaho Legislature, enacted the new income tax credit for capital investment in biofuel infrastructure (Section 63-3029M, Idaho Code). Promulgate new Income Tax Rule 765 to address such topics as the tax years when the credit is allowed, when the qualified investment must be placed in service, what qualified investments include, limitations on claiming the credit, the carryover period, taxpayers entitled to the credit, a reference to Rule 785 which discusses how the credit passes through to owners of pass-through entities, and coordination with the ITC. Promulgate new Income Tax Rule 766 to address recapture and new Income Tax Rule 767 to address record-keeping requirements. Rules 766 and 767 are similar to the ITC rules, modified to address specific biofuel statutory requirements. Amend Income Tax Rule 799 to add the biofuel investment tax credit to the priority list of credits.

Rule 800: Amend Income Tax Rule 800 to delete the information regarding Idaho Form 40EZ, which is no longer available to be used by individuals in filing their Idaho return. Add a subsection to address verification of Idaho income tax withheld to require a taxpayer to attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld.

Rule 880: Amend Income Tax Rule 880 to add capital losses and Idaho credits in the discussion of the timely claim for refund when an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss. Add a requirement that before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish the basis for the credit or refund and the amount of the overpayment in light of the Idaho Supreme Court decision in Baird Oil Company, Inc. v. The Idaho State Tax Commission.

Rule 946: Amend Income Tax Rule 946 to modify information that discusses when recapture is required consistent with House Bill 12, which was passed by the 2007 Idaho Legislature. It amended Section 63-4407, Idaho Code, to change the threshold of employment that triggers recapture for the Idaho small employer new jobs tax credit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal

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impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. INCORPORATION BY REFERENCE (RULE 006).

These rules incorporate by reference the following documents, which may be obtained from the main office of the Idaho State Tax Commission: (3-15-02)

01. MTC Special Industry Regulations. ~~This~~ These documents ~~is~~ are found ~~in~~ “~~Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States,~~” ~~November 2004 Edition, published by~~ on the Multistate Tax Commission (MTC) Web site at www.mtc.gov/Uniformity.aspx?id=496, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rules 580 and 581 of these rules. (4-11-06)()

02. MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This document is found ~~in~~ “~~Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States,~~” ~~November 2004 Edition, published by~~ on the MTC Web site at www.mtc.gov/Uniformity.aspx?id=496, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rule 582 of these rules. (4-11-06)()

(BREAK IN CONTINUITY OF SECTIONS)

031. ALIENS (RULE 031).

Sections 63-3013, 63-3013A, and 63-3014, Idaho Code.

(3-20-97)

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may

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be either a resident, part-year resident, or nonresident, except a nonresident alien as defined in Section 7701, Internal Revenue Code, shall be a nonresident. See Paragraph 031.01.b., of this rule. (3-30-07)

a. An alien shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-30-07)

b. A nonresident alien as defined in Section 7701, Internal Revenue Code, is a nonresident for Idaho. If a nonresident alien has elected to be treated as a resident of the United States for federal income tax purposes, he shall determine his Idaho residency status as provided in Paragraph 031.01.a., of this rule. (3-30-07)

02. Computation of Idaho Taxable Income. (3-20-97)

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes. (3-20-97)

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules. (3-20-97)

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions.(7-1-99)

03. Filing Status. An alien shall use the same filing status for the Idaho return as used on the federal return. If for federal income tax purposes a married alien files as a nonresident alien and does not elect to be treated as a resident, the married alien shall use the filing status married filing separate on the Idaho return. (3-30-01)

04. Copy of Federal Forms Required. In addition to the requirements set forth in Rule 800 of these rules, a nonresident alien shall attach a copy of the following forms to his Idaho individual income tax return: ()

a. Form 8843 if filed with the IRS; ()

b. All Forms 1042-S received for the taxable year. ()

032. MEMBERS OF THE ~~ARMED FORCES~~ UNIFORMED SERVICES (RULE 032).

01. Idaho Residency Status. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that *an individual on active duty with the United States Armed*

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~~Forces is not a resident of or domiciled in Idaho solely as a result of being stationed in Idaho a servicemember will neither lose nor acquire a residence or domicile with regard to his income tax as a result of being absent or present in a state due to military orders.~~ (4-6-05)()

a. A servicemember is defined to include any member of the uniformed services as that term is defined in 10 U.S.C. Section 101(a)(5). A member of the uniformed services includes: ()

i. A member of the armed forces, which includes a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard on active duty. It also includes a member of the National Guard who has been called to active service by the President of the United States or the Secretary of Defense of the United States for a period of more than thirty (30) consecutive days under 32 U.S.C. Section 502(f), for purposes of responding to a national emergency declared by the President and supported by federal funds. ()

ii. The commissioned corps of the National Oceanic and Atmospheric Administration in active service; and ()

iii. The commissioned corps of the Public Health Service in active service. ()

b. As a result of the Servicemembers Civil Relief Act: ()

i. A qualifying servicemember is not a resident of or domiciled in Idaho solely as a result of being stationed in Idaho. ()

ii. The safe harbor exception to being a resident of Idaho set forth in Section 63-3013(2), Idaho Code, shall not apply to a qualified service member. ()

~~**c.**~~ A qualifying service member is an Idaho resident only if he is domiciled in Idaho for the entire taxable year. The domicile of a qualified service member is presumed to be that member's military home of record until the qualified service member establishes a new domicile. (3-20-97)

~~**d.**~~ A qualified service member who is domiciled in Idaho for less than the entire taxable year is a part-year resident. (3-20-97)

~~**e.**~~ A qualified service member who is not domiciled in Idaho anytime during the taxable year is a nonresident. (3-20-97)

~~**f.** A member of the armed forces meeting the safe harbor exception set forth in Section 63-3013(2), Idaho Code, is not considered a resident of Idaho, even though Idaho is the person's military home of record. Any individual meeting the safe harbor exception to residency status is considered either a nonresident or part-year resident.~~ (4-5-00)

ef. The Servicemembers Civil Relief Act does not affect the Idaho residency status of a spouse of a qualified service member. The spouse of a qualified service member shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (4-6-05)

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02. Active Duty Military Pay. (3-20-97)

a. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that the active duty military pay of a qualified servicemember ~~of the United States Armed Forces~~ who is not domiciled in Idaho is exempt from Idaho income tax. The active duty military pay is not considered income from services performed within, or from sources within, Idaho. See Section 63-3026A(3)(c), Idaho Code. (4-6-05)()

b. The active duty military pay of a service member who is domiciled in Idaho is subject to Idaho income tax. However, Section 63-3022(h), Idaho Code, provides that compensation paid by the United States Armed Forces for military service performed outside Idaho is deducted from taxable income in determining the member's Idaho taxable income. A member of the armed forces does not include the commissioned corps of the National Oceanic and Atmospheric Administration or the commissioned corps of the Public Health Service, unless they have been militarized by Presidential Executive Order under Title 42, United States Code. See Section 63-3022(h), Idaho Code, for the specific qualifications of this deduction. (3-30-01)()

03. Military Separation Pay. Military separation pay received for voluntary or involuntary separation from active military service is not considered active duty military pay. Therefore, Subsection 032.02 of this rule does not apply. (4-6-05)

a. Military separation pay is included in Idaho taxable income only if the recipient is domiciled in or residing in Idaho when the separation pay is received. (3-20-97)

b. For purposes of this rule, a former active duty service member whose home of record at the time of separation from the military was a state other than Idaho is not deemed to be residing in Idaho if he moves from Idaho within thirty (30) days from the date of separation from active duty. (3-20-97)

04. Nonmilitary Income. All Idaho source income earned by a military service member is subject to Idaho taxation except as expressly limited by the Idaho Income Tax Act and these rules. (3-20-97)

05. Nonmilitary Spouse. Subsection 032.02 of this rule does not apply to the income earned by a nonmilitary spouse of a military service member. If the nonmilitary spouse is an Idaho resident, he is subject to Idaho taxation on his income from all sources. If the nonmilitary spouse is a nonresident or a part-year resident, he is subject to Idaho taxation on his income from all sources earned while residing in or domiciled in Idaho, plus his income from Idaho sources earned while not residing and not domiciled in Idaho. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code.

(3-20-04)

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PENDING RULE

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate, beginning with calendar year 1987, are identified in Subsection 075.03 of this rule. For taxable years beginning after December 31, 1999, the Idaho income tax brackets are adjusted for inflation. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 of this rule shall apply in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-6-05)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household shall be twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (5-3-03)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax would be computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount would then be multiplied by two (2). (5-3-03)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 1987 through 1999:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,000.00	\$0.00	+ 2% of taxable income
\$1,000.00	\$2,000.00	\$20.00	+ 4% of the amount over \$1,000.00
\$2,000.00	\$3,000.00	\$60.00	+ 4.5% of the amount over \$2,000.00
\$3,000.00	\$4,000.00	\$105.00	+ 5.5% of the amount over \$3,000.00
\$4,000.00	\$5,000.00	\$160.00	+ 6.5% of the amount over \$4,000.00
\$5,000.00	\$7,500.00	\$225.00	+ 7.5% of the amount over \$5,000.00
\$7,500.00	\$20,000.00	\$412.50	+ 7.8% of the amount over \$7,500.00
\$20,000.00 or more		\$1,387.50	+ 8.2% of the amount over \$20,000.00

(3-20-04)

b. For taxable years beginning in 2000:

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IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,022.00	\$0.00	+ 1.9% of taxable income
\$1,022.00	\$2,044.00	\$19.42	+ 3.9% of the amount over \$1,022.00
\$2,044.00	\$3,066.00	\$59.28	+ 4.4% of the amount over \$2,044.00
\$3,066.00	\$4,088.00	\$104.25	+ 5.4% of the amount over \$3,066.00
\$4,088.00	\$5,110.00	\$159.44	+ 6.4% of the amount over \$4,088.00
\$5,110.00	\$7,666.00	\$224.85	+ 7.4% of the amount over \$5,110.00
\$7,666.00	\$20,442.00	\$413.99	+ 7.7% of the amount over \$7,666.00
\$20,442.00 or more		\$1,397.74	+ 8.1% of the amount over \$20,442.00

(3-20-04)

c. For taxable years beginning in 2001:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,056.00	\$0.00	+ 1.6% of taxable income
\$1,056.00	\$2,113.00	\$16.90	+ 3.6% of the amount over \$1,056.00
\$2,113.00	\$3,169.00	\$54.93	+ 4.1% of the amount over \$2,113.00
\$3,169.00	\$4,226.00	\$98.25	+ 5.1% of the amount over \$3,169.00
\$4,226.00	\$5,282.00	\$152.13	+ 6.1% of the amount over \$4,226.00
\$5,282.00	\$7,923.00	\$216.57	+ 7.1% of the amount over \$5,282.00
\$7,923.00	\$21,129.00	\$404.09	+ 7.4% of the amount over \$7,923.00
\$21,129.00 or more		\$1,381.30	+ 7.8% of the amount over \$21,129.00

(3-20-04)

d. For taxable years beginning in 2002:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,087.00	\$0.00	+ 1.6% of taxable income
\$1,087.00	\$2,173.00	\$17.38	+ 3.6% of the amount over \$1,087.00
\$2,173.00	\$3,260.00	\$56.50	+ 4.1% of the amount over \$2,173.00
\$3,260.00	\$4,346.00	\$101.04	+ 5.1% of the amount over \$3,260.00

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IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$4,346.00	\$5,433.00	\$156.46	+ 6.1% of the amount over \$4,346.00
\$5,433.00	\$8,149.00	\$222.73	+ 7.1% of the amount over \$5,433.00
\$8,149.00	\$21,730.00	\$415.59	+ 7.4% of the amount over \$8,149.00
\$21,730.00 or more		\$1,420.60	+ 7.8% of the amount over \$21,730.00

(3-20-04)

e. For taxable years beginning in 2003:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,104.00	\$0	+ 1.6% of taxable income
\$1,104.00	\$2,207.00	\$17.66	+ 3.6% of the amount over \$1,104.00
\$2,207.00	\$3,311.00	\$57.39	+ 4.1% of the amount over \$2,207.00
\$3,311.00	\$4,415.00	\$102.64	+ 5.1% of the amount over \$3,311.00
\$4,415.00	\$5,518.00	\$158.93	+ 6.1% of the amount over \$4,415.00
\$5,518.00	\$8,278.00	\$226.25	+ 7.1% of the amount over \$5,518.00
\$8,278.00	\$22,074.00	\$422.16	+ 7.4% of the amount over \$8,278.00
\$22,074.00 or more		\$1,443.06	+ 7.8% of the amount over \$22,074.00

(3-20-04)

f. For taxable years beginning in 2004:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,129.00	\$0	+ 1.6% of taxable income
\$1,129.00	\$2,258.00	\$18.06	+ 3.6% of the amount over \$1,129.00
\$2,258.00	\$3,387.00	\$58.70	+ 4.1% of the amount over \$2,258.00
\$3,387.00	\$4,515.00	\$104.98	+ 5.1% of the amount over \$3,387.00
\$4,515.00	\$5,644.00	\$162.55	+ 6.1% of the amount over \$4,515.00
\$5,644.00	\$8,466.00	\$231.41	+ 7.1% of the amount over \$5,644.00
\$8,466.00	\$22,577.00	\$431.78	+ 7.4% of the amount over \$8,466.00
\$22,577.00 or more		\$1,475.95	+ 7.8% of the amount over \$22,577.00

(4-6-05)

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g. For taxable years beginning in 2005:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,159.00	\$0	+ 1.6% of taxable income
\$1,159.00	\$2,318.00	\$18.54	+ 3.6% of the amount over \$1,159.00
\$2,318.00	\$3,477.00	\$60.26	+ 4.1% of the amount over \$2,318.00
\$3,477.00	\$4,636.00	\$107.78	+ 5.1% of the amount over \$3,477.00
\$4,636.00	\$5,794.00	\$166.89	+ 6.1% of the amount over \$4,636.00
\$5,794.00	\$8,692.00	\$237.53	+ 7.1% of the amount over \$5,794.00
\$8,692.00	\$23,178.00	\$443.29	+ 7.4% of the amount over \$8,692.00
\$23,178.00 or more		\$1,515.25	+ 7.8% of the amount over \$23,178.00

(4-11-06)

h. For taxable years beginning in 2006, as calculated on June 7, 2006:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
\$0.00	\$1,198.00	\$0	+ 1.6% of taxable income
\$1,198.00	\$2,396.00	\$19.17	+ 3.6% of the amount over \$1,198.00
\$2,396.00	\$3,594.00	\$62.30	+ 4.1% of the amount over \$2,396.00
\$3,594.00	\$4,793.00	\$111.43	+ 5.1% of the amount over \$3,594.00
\$4,793.00	\$5,991.00	\$172.53	+ 6.1% of the amount over \$4,793.00
\$5,991.00	\$8,986.00	\$245.62	+ 7.1% of the amount over \$5,991.00
\$8,986.00	\$23,963.00	\$458.30	+ 7.4% of the amount over \$8,986.00
\$23,963.00 or more		\$1,566.59	+ 7.8% of the amount over \$23,963.00

(3-30-07)

i. For taxable years beginning in 2007, as calculated on May 17, 2007:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	But less than	Is	Plus
<u>\$0.00</u>	<u>\$1,237.00</u>	<u>\$0</u>	+ <u>1.6% of taxable income</u>
<u>\$1,237.00</u>	<u>\$2,474.00</u>	<u>\$19.79</u>	+ <u>3.6% of the amount over \$1,237.00</u>
<u>\$2,474.00</u>	<u>\$3,710.00</u>	<u>\$64.31</u>	+ <u>4.1% of the amount over \$2,474.00</u>

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IF IDAHO TAXABLE INCOME IS		IDAHO TAX
<u>\$3,710.00</u>	<u>\$4,947.00</u>	<u>\$115.02</u> + 5.1% of the amount over <u>\$3,710.00</u>
<u>\$4,947.00</u>	<u>\$6,184.00</u>	<u>\$178.10</u> + 6.1% of the amount over <u>\$4,947.00</u>
<u>\$6,184.00</u>	<u>\$9,276.00</u>	<u>\$253.55</u> + 7.1% of the amount over <u>\$6,184.00</u>
<u>\$9,276.00</u>	<u>\$24,736.00</u>	<u>\$473.08</u> + 7.4% of the amount over <u>\$9,276.00</u>
<u>\$24,736.00 or more</u>		<u>\$1,617.13</u> + 7.8% of the amount over <u>\$24,736.00</u>

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(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).

Section 63-3022, Idaho Code.

(3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution excluded from taxable income. (3-30-01)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

03. Withdrawals from an Idaho College Savings Program. ()

a. As provided in Section 63-3022(o), Idaho Code, an account owner shall add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (3-20-04)

b. As provided in Section 63-3022(p), Idaho Code, an account owner shall add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. ()

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, an eligible educator as defined in Section 62, Internal Revenue Code, shall add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (3-20-04)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, add the amount of state and local general sales taxes deducted as an itemized deduction. (4-11-06)

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(BREAK IN CONTINUITY OF SECTIONS)

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (RULE 121).

Section 63-3022, Idaho Code.

(3-20-97)

01. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Certain income earned by American Indians. See Rule 033 of these rules. (5-3-03)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. (3-20-97)

02. Military Compensation for Service Performed Outside Idaho. As provided in Section 63-3022(h), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules. (3-30-01)

03. Standard or Itemized Deduction. As provided in Section 63-3022(j), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. If itemized deductions are limited pursuant to the Internal Revenue Code, they are also limited for Idaho income tax purposes. (3-30-01)

a. If state and local income or general sales taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state and local income or general sales taxes added back shall be computed by dividing the amount of itemized deductions that are allowed to the taxpayer after all federal limitations by total itemized deductions before the Section 68 limitation. For taxable years beginning in or after 2007, this ~~percent~~ proration shall be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number (\$10,000/\$15,000 = .66-666% = .6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped (\$10,000/\$30,000 = .33-333% = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%) nor be less than zero (0). ~~This percent~~ The result is then applied to state and local income or general sales taxes to determine the Idaho state and local income and general sales tax addback. See Rule 105 of these rules. (3-30-07)()

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b. If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction. (7-1-99)

c. For taxable year 1999 the standard deduction allowed on a married filing joint return shall be increased by one hundred fifty dollars (\$150). (3-30-01)

d. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (3-30-01)

04. Social Security and Railroad Retirement Benefits. As provided in Section 63-3022(l), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in gross income pursuant to Section 86, Internal Revenue Code. (3-30-01)

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. (7-1-99)

b. The term certain railroad retirement benefits means the following amounts paid by the Railroad Retirement Board: (4-6-05)

i. Annuities, supplemental annuities, and disability annuities, including the Tier I social security equivalent benefits, and the Tier II pension amounts; (4-6-05)

ii. Railroad unemployment; and (4-6-05)

iii. Sickness benefits. (4-6-05)

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022(m), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (3-30-01)

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Insulation of an Idaho Residence. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the insulation of an Idaho residence. (3-20-97)

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08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence. (3-20-97)

09. Household and Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction for Elderly or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

11. Reparations to Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund. (3-20-97)

12. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified property. (3-20-97)

13. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child. (3-20-97)

14. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of these rules, a deduction from taxable income is allowed for qualifying contributions to and interest earned on an Idaho medical savings account. (4-5-00)

15. Idaho College Savings Program. As provided in Section 63-3022(n), Idaho Code, a deduction from taxable income is allowed for qualifying contributions to a college savings program. (3-15-02)

16. Health Insurance Costs. A deduction from taxable income is allowed for the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care, as defined in Section 63-3022P, Idaho Code, for the taxpayer, the spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. See Rule 193 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

123. -- 1274. (RESERVED).

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125. ADJUSTMENTS TO TAXABLE INCOME -- BONUS DEPRECIATION (RULE 125).

Section 63-3022O, Idaho Code.

()

01. In General. For taxable years beginning on and after January 1, 2001, Section 63-3022O, Idaho Code, requires that when computing Idaho taxable income, the amount of the adjusted basis of depreciable property, depreciation, and gains and losses from the sale, exchange, or other disposition of depreciable property shall be computed without regard to bonus depreciation allowed by Section 168(k), Internal Revenue Code. In order to meet this requirement, a taxpayer shall be consistent in making the Idaho adjustments required for all the taxable years in which federal bonus depreciation is claimed.

()

02. Depreciation.

()

a. If a taxpayer makes the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, in the subsequent taxable years the taxpayer shall be entitled to the Idaho subtractions for the additional depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation claimed for federal income tax purposes.

()

b. If a taxpayer fails to make the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, the taxpayer shall not be entitled to claim the Idaho subtractions for additional depreciation in subsequent taxable years. In such instances, claiming an Idaho subtraction for additional depreciation when the first year Idaho addition was not claimed constitutes computing depreciation with regard to Section 168(k), Internal Revenue Code, which is specifically prohibited in Section 63-3022O(1), Idaho Code. For example, the Idaho addition is required for a taxable year when the bonus depreciation is claimed even though the taxpayer may be limited in claiming a passive loss from a pass-through entity in which the bonus depreciation arose. If the bonus depreciation is not added back in that taxable year, the Idaho subtractions are not allowed in the subsequent taxable years.

()

c. The Idaho adjustments shall be required in all taxable years in which the taxpayer has an Idaho filing requirement or is a member of a combined group of corporations in which at least one member has an Idaho filing requirement. If the taxpayer is not required to file an Idaho income tax return for one (1) or more years in which depreciation may be claimed, the taxpayer shall claim the Idaho adjustment in the taxable years in which an Idaho return is filed if all such taxable years are treated consistently.

()

d. Example. A corporation transacted business in California and Oregon during taxable year 2003. In 2004, the taxpayer began transacting business in Idaho and was required to file an Idaho corporation income tax return for that year. On the federal return filed for 2003, the taxpayer claimed bonus depreciation for assets placed in service that year. Because the taxpayer was not required to file an Idaho corporation income tax return for 2003, there was no Idaho bonus depreciation addition required of the taxpayer. In 2004, the second year of depreciation for the assets placed in service in 2003, the taxpayer was required for Idaho income tax purposes to compute depreciation on the assets as if bonus depreciation had not been claimed. The difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes for 2004 would be allowed to the taxpayer as an Idaho subtraction since the taxpayer was required

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to file an Idaho corporation income tax return for that year. Assuming the taxpayer files an Idaho corporation income tax return for the remaining years when depreciation on the assets is allowed, the taxpayer will be allowed the Idaho subtraction in those years for the difference in the Idaho and federal depreciation amounts. If the corporation transacted business in Idaho during 2003 only, the return filed for that year should reflect the Idaho addition for the difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes, even though the subtractions will not apply in subsequent years. ()

126. -- 127. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

255. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF EXEMPTIONS AND DEDUCTIONS (RULE 255).

Section 63-3026A(4), Idaho Code. (3-30-07)

01. In General. The exemptions and deductions allowable for federal purposes, except for the deduction of state income taxes, are allowed in part in computing Idaho taxable income. To determine the portion of exemptions and deductions allowable for part-year and nonresident individuals, the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, shall be multiplied by the calculated proration. (3-20-97)()

02. Proration-~~Percentage.~~ ~~To determine the portion of exemptions and deductions allowable for part year and nonresident individuals, multiply the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, by the proration percentage. The proration percentage is calculated by dividing Idaho adjusted income by total adjusted income. For taxable years beginning in or after 2007, the percentage shall be e~~ the proration is calculated by dividing Idaho adjusted income by total adjusted income. Calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($\$10,000 / \$15,000 = .66-666\% = .6667 = 66.67\%$). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($\$10,000 / \$30,000 = .33-333\% = .3333 = 33.33\%$). The percentage may not exceed one hundred percent (100%), nor be less than zero (0). (3-30-07)()

a. Idaho adjusted income means the Idaho taxable income of the taxpayer as computed pursuant to Title 63, Chapter 30, Idaho Code, except for any adjustments for the standard deduction or itemized deductions and personal exemptions. Total adjusted income means the Idaho taxable income of the taxpayer computed as if he were a resident of Idaho for the entire taxable year, except no adjustments are made for the standard deduction, itemized deductions, personal exemptions, the deduction for active military service pay as provided in Section 63-3022(h), Idaho Code, and any deduction for income earned within a federally recognized Indian reservation. (3-30-01)

b. Generally, both Idaho adjusted income and total adjusted income are positive

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amounts. If Idaho adjusted income is less than or equal to the total adjusted income, the percentage shall be between zero (0) and one hundred percent (100%). If Idaho adjusted income is greater than the total adjusted income, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a positive amount and total adjusted income is a negative amount, the percentage shall be one hundred percent (100%). If Idaho adjusted income is a negative amount and total adjusted income is a positive amount, the percentage shall be zero (0). (3-20-97)

03. Standard Deduction for Married Filing Joint Returns. The proration percentage shall be applied after making the following calculations: (3-30-01)

a. For taxable year 1999 the standard deduction allowed on a married filing joint return shall be increased by one hundred fifty dollars (\$150). (3-30-01)

b. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

275. INVESTMENT INCOME FROM ~~INTANGIBLE PROPERTY OF~~ QUALIFIED INVESTMENT PARTNERSHIPS (RULE 275).

Section 63-3026A(3)(c), Idaho Code. (4-11-06)

01. In General. (4-11-06)

a. For taxable years beginning on or after January 1, 2004, an Idaho nonresident individual will not be taxed on investment income from securities received from a qualifying entity described in Subsection 275.02 of this rule shall be deemed to be derived from or related to a source in the partner's or member's state of domicile. This income shall be deemed to be derived from or related to a source in Idaho if the partner or member is domiciled in Idaho or is residing in Idaho when the income is received a qualified investment partnership. See Rule 250 of these rules for information on when pass-through income from a partnership is deemed to have been received. (4-11-06)(____)

b. ~~This rule~~ The exemption from tax on investment income from a qualified investment partnership shall not apply to gains or losses derived from the sale of ~~a nonresident individual's~~ interest in a qualified investment partnership. The source of these gains and losses is to be governed by Section 63-3026A(3)(a)(vii), Idaho Code, and as discussed in Rule 266 of these rules. The source of investment income that is not from a ~~qualifying entity~~ qualified investment partnership shall be determined as provided in Rule 263 of these rules. (4-11-06)(____)

02. ~~Qualifying Entity~~ Qualified Investment Partnership. An entity shall be a qualified investment partnership only if it meets both of the following criteria: (4-11-06)(____)

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a. ~~A qualifying~~ The entity ~~includes only an entity that is taxed~~ is classified as a partnership for federal income tax purposes, but is not a publicly traded partnership taxed as a corporation under Section 63-3006, Idaho Code. (4-11-06)()

b. ~~The business activity of a qualifying entity must be limited to investment in securities and activities incident thereto. If the entity is involved in any other business activity not related to the securities investment activities, the entity is not a qualifying entity for purposes of Section 63-3026(A)(3)(c) and the source of income from such entity shall be determined pursuant to Rule 263 of these rules. Activities incident thereto shall include only those activities that would be usual and customary in the securities investment business and that contribute to the earning of the investment income. The gross income from investments of the entity must be derived at least ninety percent (90%) from investments that when held by a nonresident individual directly, would not produce income subject to the Idaho income tax. See Rules 263 and 266 of these rules.~~ (4-11-06)()

03. Investment in Securities. For purposes of this rule: (4-11-06)

~~a. Investment in securities shall include any stock, bond, commodity, future, derivative, foreign currency, or similar financial product.~~ (4-11-06)

~~b. Investment in securities and activities incident thereto shall not include the purchase or sale of real or tangible personal property, or any installment note received from the sale of real or tangible personal property.~~ (4-11-06)

~~c. Activities incident thereto shall include those activities that are usual and customary to the business of investing in securities including: maintaining accounts for individual investors, soliciting applications from new investors, record keeping and storage, maintaining bank accounts for liquid assets and disbursing profits to investors, research and evaluation of investment opportunities and results, and the maintenance of an office in Idaho for such activities.~~ (4-11-06)

~~d. Investment in securities and activities incident thereto shall include only investments that are passive investments. For purposes of this rule, investments are not passive investments where one (1) or more investors in the entity taxed as a partnership exercises direct or indirect control over the operation of a business entity from which the income received by the entity taxed as a partnership is derived.~~ (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

281. -- 2894. (RESERVED).

285. S CORPORATIONS (RULE 285).
Sections 63-3025 and 63-3025A, Idaho Code. ()

01. Tax on S Corporations. An S corporation that is transacting business in Idaho or

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authorized to transact business in Idaho is subject to the tax imposed by Section 63-3025, Idaho Code, if not paying the tax imposed by Section 63-3025A, Idaho Code. The tax imposed by Section 63-3025 or 63-3025A, Idaho Code, shall be computed on the total of the net recognized built-in gains and the excess net passive income of the S corporation attributable to Idaho for the taxable year. ()

a. Net recognized built-in gains shall be determined pursuant to Section 1374, Internal Revenue Code, including any applicable limitations. ()

b. Excess net passive income shall be determined pursuant to Section 1375, Internal Revenue Code, including any applicable limitations. ()

c. If the tax computed in Subsection 285.01 of this rule is less than the minimum tax, the S corporation shall pay the minimum tax. ()

02. Minimum Tax. The minimum tax is required of every S corporation that is required to file a return. A name-holder or inactive S corporation that is authorized to do business in Idaho shall pay the minimum tax of twenty dollars (\$20) even though the S corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 285.03 of this rule. ()

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. An S corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. ()

04. Application of Credits. If an S corporation was previously a C corporation with an Idaho income tax credit carryover at the time of the S corporation election, the S corporation may use any available credit carryover against the tax on the excess net passive income or net recognized built-in gains if the carryover period related to the Idaho income tax credit has not expired before the taxable year in which the tax must be reported. ()

05. Tax Resulting From the Election Under Section 63-3022L, Idaho Code. An S corporation shall be subject to tax at the corporate rate on the income required to be reported for qualifying shareholders who make the election under Section 63-3022L, Idaho Code. This tax shall be in addition to any tax the S corporation owes under Section 63-3025 or 63-3025A, Idaho Code. See Rules 290 and 291 of these rules for information on the election and computing taxable income under Section 63-3022L, Idaho Code. ()

06. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) shall be treated for Idaho income tax purposes the same as treated for federal income tax purposes. The QSSS will not be treated as a separate corporation, but all the assets, liabilities, and items of income, deduction, and credit of a QSSS shall be treated as assets, liabilities and such items of the S corporation. Since the QSSS is not treated as a separate taxpayer, it is not subject to the minimum tax. ()

286. S CORPORATIONS OPERATING WITHIN AND WITHOUT IDAHO (RULE 286).

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Sections 63-3027 and 63-3030(a)(4), Idaho Code. ()

01. In General. An S corporation that operates within and without Idaho shall apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of S corporation income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. ()

02. Exceptions to Apportionment Formula. If the method described in Subsection 286.01 of this rule does not fairly represent the extent of the business activity in Idaho, the S corporation may file a request to use or the Tax Commission may require, an alternative method, including the following: ()

a. Separate accounting as provided in Rule 585 of these rules; ()

b. The exclusion of a factor pursuant to Rule 590 of these rules; ()

c. An additional factor or substitute factor pursuant to Rule 595 of these rules; or ()

d. The employment of any other method that would fairly represent the extent of business activity in Idaho. ()

03. Information Provided to Shareholders. An S corporation shall provide to each shareholder information necessary for the shareholder to compute his Idaho income tax. Such information shall include: ()

a. The apportioned share of each pass-through item of income and deduction; ()

b. The apportioned share of each Idaho addition and subtraction; ()

c. Idaho tax credits and tax credit recapture; ()

d. Income allocated to Idaho; and ()

e. The distributive share of S corporation gross income multiplied by the Idaho apportionment factor. ()

04. Protection Under Public Law 86-272. An S corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. ()

05. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) shall include its apportionment attributes with its parent's apportionment attributes to compute one Idaho apportionment factor for the S corporation. ()

287. (RESERVED).

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(BREAK IN CONTINUITY OF SECTIONS)

582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (RULE 582).

Section 63-3027(s), Idaho Code.

(7-1-98)

01. Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates by reference the MTC "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" as adopted in Subsection 006.02 of these rules. A copy of this regulation may be obtained from the main office of the Idaho State Tax Commission. (5-3-03)

02. Definition of Financial Institution. For purposes of Section 2(h) of the "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" the term financial institution means a person that predominantly deals in money or moneyed capital in substantial competition with the business of national banks. For purposes of this rule, the following definitions apply: (7-1-99)

a. Predominantly means over fifty percent (50%) of a taxpayer's gross income is attributable to dealings in money or moneyed capital in substantial competition with the business of national banks. Generally, the determination of predominance will be made based upon the division of gross income for the year in issue. However, the classification of a taxpayer as a financial institution or as a nonfinancial institution will not be changed based upon an occasional year in which its gross income does or does not exceed the fifty percent (50%) level. For the classification of a taxpayer as a financial or nonfinancial institution to be changed, there must be a shift in the predominant character of the gross income for two (2) consecutive years and the average of the corporation's gross income in the current and the immediately preceding two (2) years must fail or satisfy the predominance test. If substantial amounts of gross income arise from an incidental or occasional sale of an asset of the taxpayer, such gross income shall be excluded for purposes of this subsection. For example, gross income from the sale of a headquarters building shall be excluded. (7-1-98)

b. Deals in means conducting transactions in the course of a trade or business on its own account as opposed to brokering the capital of others. (7-1-98)

c. Money or moneyed capital includes, but is not limited to, coin, cash, currency, mortgages, deeds of trust, conditional sales contracts, loans, commercial paper, installment notes, credit cards, and accounts receivable. (7-1-98)

d. In substantial competition means that a corporation and national banks both engage in seeking and securing in the same locality capital investment of the same class which are substantial in amount, even though the terms and conditions of the business transactions of the same class are not identical. It does not mean there must be competition as to all phases of the business of national banks, or competition as to all types of loans or all possible borrowers. The activities of a corporation need not be identical to those performed by a national bank in order to constitute substantial competition; It is sufficient if there is competition with some, but not all,

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bases of the business of national banks, or capital is invested in particular operations or investments like those of national banks. (7-1-98)

03. Entities Presumed to Be Financial Institutions. The following entities are presumed to be financial institutions as defined in Subsection 582.02: (7-1-98)

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; (7-1-98)

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; (7-1-98)

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; (7-1-98)

d. Any bank or thrift institution incorporated or organized under the laws of any state; (7-1-98)

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; (7-1-98)

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; (7-1-98)

g. Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Subsections 582.03.a. through 582.03.f. other than an insurance company exempted from tax by Section 41-405, Idaho Code; and (7-1-98)

h. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. (7-1-98)

04. Exclusion from Rule. The Tax Commission is authorized to exclude any person from the application of Subsection 582.01 upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Subsections 582.03.a. through 582.03.f. and 582.03.h. (7-1-98)

~~**05. Financial Institutions Described in Section 63-3023(b), Idaho Code.**~~ (7-1-99)

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~~a. Transacting business. If an entity described in Section 63-3023(b), Idaho Code, does not maintain an office within Idaho and carries on only the activities listed in Section 63-3023(b)(1) through (4), Idaho Code, it is not deemed to be transacting business within Idaho. The fact that the entity is also a financial institution as defined in this rule will not change the result of Section 63-3023(b), Idaho Code.~~ (7-1-99)

~~b. Calculation of apportionment factor attributes. A financial institution described in Section 63-3023(b), Idaho Code, that is a member of a unitary group of corporations with at least one member subject to Idaho income tax, shall include its property, payroll, and sales amounts in the denominators of the unitary group's factors. The calculation of the amount included in the denominators shall be computed as provided in the MTC Recommended Formula for Financial Institutions. Because such a financial institution is not deemed to be transacting business within Idaho, the financial institution will have zero (0) for its Idaho numerators of the apportionment factors and will not have an Idaho corporate income tax liability. A financial institution that is transacting business within Idaho shall compute its Idaho numerator and denominator amounts as provided in the MTC Recommended Formula for Financial Institutions.~~ (7-1-99)

065. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. (7-1-99)

076. The Apportionment Percentage. References in Section 1(b) of the MTC Recommended Formula for Financial Institutions to the computation of the apportionment percentage being determined by adding the taxpayer's receipts factor, property factor, and payroll factor together and dividing the sum by three (3) shall be replaced with adding two (2) times the taxpayer's sales factor, the taxpayer's property factor, and the taxpayer's payroll factor together and dividing the sum by four (4) as required by Section 63-3027(i), Idaho Code. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

641. WATER'S EDGE -- ELEMENTS OF A COMBINED REPORT (RULE 641).
Section 63-3027B, Idaho Code. (3-20-97)

01. Income. Income for the water's edge combined group is computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the water's edge combined group shall be eliminated to the extent necessary to properly reflect combined income. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation shall be included in the computation of the income of the water's edge combined group. (3-20-97)(____)

02. Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the water's edge combined group shall be determined pursuant to Section 63-3027, Idaho Code, and related rules. ~~When computing the apportionment factors of the water's edge~~

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~~combined group.~~ Intercompany transactions between members of the group shall be eliminated to the extent necessary to properly compute the apportionment factors of the water's edge combined group. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation shall be included, if appropriate, when determining apportionment factors. Dividends, to the extent included in apportionable income, shall be included in the sales factor computation. (3-20-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

700. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY -- IN GENERAL (RULE 700).

Section 63-3029, Idaho Code.

(3-30-07)

01. Taxpayers Entitled to the Credit. The credit for taxes paid to another state shall be allowed only to qualifying individuals who are domiciled in Idaho at the time the income was earned in another state as determined under Section 63-3026A, Idaho Code, and related rules. An individual who is not domiciled in Idaho but who qualifies as a resident in accordance with Section 63-3013(b), Idaho Code, does not qualify for this credit. (3-30-07)(____)

02. Taxes Eligible for the Credit. The credit for taxes paid to another state is allowed for the amount of income tax imposed by another state on a qualifying individual, an S corporation, partnership, limited liability company, or trust of which the individual is a shareholder, partner, member or beneficiary. For taxes paid by a pass-through entity, the credit is allowed to the extent the tax is attributable to the individual as a result of his share of the entity's taxable income in another state. (3-30-07)

03. Taxes Not Eligible for the Credit. Any tax or portion thereof imposed on capital stock, retained earnings, stock values, or a basis other than income is not eligible for the credit. (7-1-98)

04. Credit Calculated on a State-by-State Basis. The credit and credit limitations shall be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations. (7-1-98)

05. Income Tax Payable to Another State. The income tax payable to another state shall be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. Tax paid to cities or counties does not qualify for the credit. (3-30-07)

06. Limitations. The credit for taxes paid to another state shall be limited as follows: (3-30-07)

a. The credit allowed may not exceed the amount of tax actually paid to the other state. This includes the amount paid by a qualifying individual and the amount paid for such

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individual by an S corporation, partnership, limited liability company, or trust. (3-30-07)

b. If an individual receives a refund due to a refundable credit for all or part of the income tax paid by the pass-through entity, the amount of the refund attributable to the refundable credit shall reduce the income tax paid by the pass-through entity. For example, an individual domiciled in Idaho is required to pay tax in another state due to his interest in an S corporation operating in that state. In addition to the individual's tax paid to the other state, the S corporation is required to pay an income tax to that state, of which four hundred dollars (\$400) is attributable to the Idaho resident. The individual's income tax to the other state totals three hundred dollars (\$300), but he is entitled to a three-hundred sixty dollar (\$360) refundable corporate tax credit due to his share of the tax paid by the pass-through entity, resulting in a net refund of sixty dollars (\$60). In computing the tax actually paid to the other state, the tax paid by the pass-through entity must be reduced by the net refund received by the individual ($\$400 - \$60 = \$340$). The credit for tax paid to the other state is limited to three hundred forty dollars (\$340). (3-30-07)

c. The credit may not exceed the proportion of the tax otherwise due to Idaho that the amount of the adjusted gross income of the individual derived from sources in the other state as modified by Chapter 30, Title 63, Idaho Code, bears to total adjusted gross income for the individual so modified. For example, if the adjusted gross income derived in another state is twelve thousand dollars (\$12,000) after taking into account the Idaho additions and subtractions required by the Idaho Income Tax Act, and the individual's total adjusted gross income similarly modified equals fifty thousand dollars (\$50,000), the credit cannot exceed twenty-four percent (24%) of the tax paid to Idaho ($\$12,000/\$50,000 = 24\% \times \text{tax paid to Idaho}$). (3-30-07)

07. ~~Rounding to the Nearest Whole Percent.~~ For taxable years beginning in or after 2007, the ~~percentage~~ proration calculated under Section 63-3029, Idaho Code, shall be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($\$10,000/\$15,000 = .66-666\% = .6667 = 66.67\%$). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($\$10,000/\$30,000 = .33-333\% = .3333 = 33.33\%$). ~~This~~ The percentage may not exceed one hundred percent (100%) nor be less than zero (0). ~~(3-30-07)()~~

(BREAK IN CONTINUITY OF SECTIONS)

714. IDAHO INVESTMENT TAX CREDIT -- CREDIT EARNED ON PROPERTY USED BOTH IN AND OUTSIDE IDAHO IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1995 (RULE 714).

Section 63-3029B, Idaho Code. (3-20-97)

01. In General. Property must be used at least part of the time in Idaho to qualify for the investment tax credit, provided it otherwise qualifies for the credit. It must also be used in Idaho in each succeeding year to which a carryover may be taken. (3-20-97)

02. Election of Methods. The taxpayer must elect to compute the investment tax credit on property used both in and outside Idaho using either the percentage-of-use method or the

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amount of that property correctly included in the Idaho property factor numerator. The credit for all property used both in and outside Idaho must be computed using the method elected.

(3-20-97)()

a. If the percentage-of-use method is elected, the basis of each qualified asset is multiplied by the percentage of time, miles, or other measure that accurately reflects the use of that asset in Idaho. The use of aircraft within and without Idaho during the taxable year shall be determined by the ratio of departures from locations in Idaho to total departures. See Subsection 713.04.a. of these rules for an example of the percentage-of-use method. (7-1-98)

b. If the property factor numerator option is elected, the qualified investment is the basis of the asset correctly included in the numerator of the Idaho property factor for the year the credit is earned. ~~For example, if a taxpayer is in the freight transportation business and thirty percent (30%) of his trucks' fleet miles were logged in Idaho during the year, thirty percent (30%) of the cost of a truck acquired that year would be included in the Idaho property factor numerator. If one of the trucks acquired that year traveled in Idaho, and cost one hundred thousand dollars (\$100,000), the amount included in the Idaho property factor numerator would be thirty thousand dollars (\$30,000). The qualified investment in this truck would also be thirty thousand dollars (\$30,000) resulting in a credit of nine hundred dollars (\$900).~~ (7-1-98)()

i. The amounts of investment tax credit computed under the percentage-of-use method and the property factor numerator option are generally the same. Differences may result when a taxpayer uses certain MTC special industry regulations that allow the taxpayer to vary from using the percentage-of-use method for determining the Idaho numerator for each item of mobile property, and instead allow another method, such as the ratio of mobile property miles in the state compared to total mobile property miles or the ratio of departures of aircraft from locations in the state compared to total departures. These special industry regulations include the regulations for airlines, railroads, and trucking companies. See Rule 580 of these rules for a list of the special industries. ()

ii. "Correctly included in the numerator of the Idaho property factor" means that the amount included in the Idaho property factor numerator was correctly computed using Section 63-3027, Idaho Code, and related rules including any MTC special industry regulations that apply to the taxpayer. If the amount included in the Idaho property factor numerator exceeds the amount that should have been included using Section 63-3027, Idaho Code and related rules, the investment tax credit shall be allowed only on the amount that reflects the correct calculation for purposes of computing the Idaho property factor numerator. For example, a taxpayer includes one hundred percent (100%) of the basis of an asset in the Idaho property factor numerator, but the amount correctly computed under Section 63-3027, Idaho Code, should have been fifty percent (50%) of the basis of the asset. The investment tax credit shall be allowed only on the fifty percent (50%) of the basis of the asset. ()

(BREAK IN CONTINUITY OF SECTIONS)

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746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (RULE 746).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning on and after January 1, 2004. (4-6-05)

01. In General. For taxable years beginning on and after January 1, 2004, an employer may be able to earn either a one thousand dollar (\$1,000) credit or a five hundred dollar (\$500) credit for a qualifying new employee. However, the employer cannot earn both credits for the same employee. The applicable credit rate depends on whether the new employee meets certain wage and benefit criteria. If the new employee does not meet the criteria for either credit rate, the employer may not claim the credit for such new employee. (4-6-05)

02. Qualifying for the One Thousand Dollar (\$1,000) Credit. (4-6-05)

a. The new employee must meet both of the following criteria to qualify for the one thousand dollar (\$1,000) credit: (4-6-05)

i. He must have received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked; and (4-6-05)

ii. He must have been eligible to receive employer provided coverage under an accident or health plan described in Section 105, Internal Revenue Code. (4-6-05)

b. The new employee does not have to be employed in a revenue-producing enterprise to qualify for the one thousand dollar (\$1,000) credit. (4-6-05)

03. Qualifying for the Five Hundred Dollar (\$500) Credit. If a new employee does not meet the criteria for the one thousand dollar (\$1,000) credit, the employer may be eligible to claim the five hundred dollar (\$500) credit. To qualify for the five hundred dollar (\$500) credit, the new employee must have been employed in a revenue-producing enterprise as defined in Section 63-3029E, Idaho Code. (4-6-05)

04. Calculating Number of Employees. (3-30-01)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-20-04)

i. The employee must have been subject to Idaho income tax withholding. (3-20-04)

ii. The employee must have been employed by the employer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. (4-6-05)

iii. The employee must have been performing such duties for the employer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. (4-6-05)

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iv. The employee must have been covered for Idaho unemployment insurance purposes. (3-20-04)

b. Idaho Department of Commerce and Labor Reports. The employer should begin with his Idaho Department of Commerce and Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (4-6-05)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-01)

05. Calculating the Number of New Employees. (3-30-01)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)

b. The requirements as to who qualifies for the calculation of number of employees in Paragraph 746.02.a., of this rule shall apply in computing the number of employees in Subparagraphs 746.05.a.i., and 746.05.a.ii., of this rule. Calculations used in computing the number of new employees for the prior taxable year and average for the three (3) prior taxable years shall be made consistent with the computations for the current taxable year. ~~If the employer treats the entire business as a revenue-producing enterprise under Paragraph 745.04.a., of these rules, the calculations in Subparagraphs 746.05.a.i., and 746.05.a.ii., of this rule shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years.~~ (4-6-05)()

c. The number of new employees shall be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (4-6-05)

d. The employer shall determine the number of new employees who qualify for the one thousand dollar (\$1,000) credit and the number who qualify for the five hundred dollar (\$500) credit. If the new employees do not meet the criteria set forth in Sections 63-3029E and 63-3029F, Idaho Code, and this rule, the employer shall not earn the credit. For example, if a new employee has an average wage rate of ten dollars (\$10) and the employer's business does not qualify as a revenue-producing enterprise, the new employee does not qualify for either the one thousand dollar (\$1,000) credit or the five hundred dollar (\$500) credit. (4-6-05)

06. Computing the Credit Earned. The credit earned is the lesser of the amounts determined in Paragraphs 746.06.a., and 746.06.b., of this rule. (4-6-05)

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a. The number of new employees who qualify for the five hundred dollars (\$500) credit multiplied by five hundred dollars (\$500), plus the number of new employees who qualify for the one thousand dollar (\$1,000) credit multiplied by one thousand dollars (\$1,000); or

(4-6-05)

b. The net income of the trade or business, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%).

(4-6-05)

07. Limitations. In the year the credit for qualifying new employees is earned or claimed:

(3-20-04)

a. This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation.

(4-6-05)

b. See Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits.

(4-6-05)

08. Carryover. To claim the carryover, the employer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the employer is not required to recapture the credit claimed in previous taxable years. However, the employer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover.

(4-6-05)

09. Pass-Through Entities. See Rule 785 of these rules for pass-through entities and the calculation of credits.

(3-15-02)

10. Unitary Taxpayers.

(3-30-01)

a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules.

(3-30-01)

b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits.

(4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

~~764.—769.~~ (RESERVED).

765. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT -- IN GENERAL (RULE 765).

Section 63-3029M, Idaho Code.

(____)

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01. Credit Allowed. The biofuel infrastructure investment tax credit allowed by Section 63-3029M, Idaho Code, may be earned during taxable years beginning on and after January 1, 2007, and before December 31, 2011. It applies to qualified investment placed in service after July 1, 2007. ()

a. Qualified investment placed in service on or before July 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on May 15, 2007, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service after July 1, 2007. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. ()

b. Qualified investment placed in service after July 1, 2007, during a taxable year beginning before January 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on August 1, 2007, during a taxable year that begins on October 1, 2006, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service in a taxable year beginning on or after January 1, 2007, and before December 31, 2011. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. ()

02. Qualified Investment. For purposes of the biofuel infrastructure investment tax credit, qualified investment includes the following: ()

a. New fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel. New fueling infrastructure shall mean investment in fueling infrastructure that: ()

i. Is constructed or erected by the taxpayer, or ()

ii. Is acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new infrastructure. ()

b. Costs to upgrade existing fueling infrastructure that was previously incompatible to enable it to offer biofuel. Such costs include expenses related to the cleaning of existing fuel storage tanks, trucks, or other equipment for the purpose of providing biofuels. ()

c. Fueling infrastructure means necessary tanks, piping, pumps, pump stands, hoses, monitors, blending equipment, meters, rack injection systems, or any other equipment and the costs to install the equipment that is necessary for a fuel distributor or a retail fuel outlet to offer biofuel for sale. ()

03. Limitations. Regardless of whether the biofuel infrastructure investment tax credit available in a taxable year results from a carryover earned in prior years, credit earned in the current year, or both, the biofuel infrastructure investment tax credit allowable in any taxable year

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shall be limited as follows: ()

a. Tax liability. The biofuel infrastructure investment tax credit claimed during a taxable year may not exceed the lesser of: ()

i. Fifty percent (50%) of the tax; or ()

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the biofuel infrastructure investment tax credit. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the biofuel infrastructure investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. ()

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. ()

04. Carryovers. The carryover period for the biofuel infrastructure investment tax credit is five (5) years. ()

05. Taxpayers Entitled to the Credit. The biofuel infrastructure investment tax credit is allowed to fuel distributors and retail fuel dealers. Rule 711 of these rules shall apply to the biofuel infrastructure investment tax credit, except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029M, Idaho Code. ()

06. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

07. Coordination With Investment Tax Credit and Property Tax Exemption in Lieu of the Investment Tax Credit. ()

a. A taxpayer who elects to claim the biofuel infrastructure investment tax credit on qualified investment may not claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. A taxpayer may, however, claim the investment tax credit on property for which he is not claiming the biofuel infrastructure investment tax credit. ()

b. A taxpayer who elects to claim the property tax exemption in lieu of the investment tax credit allowed by Section 63-3029B, Idaho Code, may not claim the biofuel infrastructure investment tax credit on the same property. ()

c. A taxpayer may claim the investment tax credit, the property tax exemption in lieu of the investment tax credit, and the biofuel infrastructure investment tax credit in the same

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taxable year. However, only one (1) of the incentives may be claimed on any one (1) property.

()

766. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT -- RECAPTURE (RULE 766).

Section 63-3029M, Idaho Code.

()

01. In General. If a taxpayer is claiming or has claimed the biofuel infrastructure investment tax credit for property that ceases to qualify pursuant to Section 63-3029M, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. The qualified investment shall cease to qualify if any of the following occur prior to the end of the recapture period:

()

a. The biofuel infrastructure is sold or otherwise disposed of;

()

b. The biofuel infrastructure is moved out of Idaho; or

()

c. The biofuel infrastructure ceases to be used in connection with offering biofuel for sale.

()

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify.

()

767. BIOFUEL INFRASTRUCTURE INVESTMENT CREDIT -- RECORD-KEEPING REQUIREMENTS (RULE 767).

Section 63-3029M, Idaho Code.

()

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the biofuel infrastructure investment tax credit claimed on an income tax return subject to examination. The records must include all of the following:

()

a. A description of the property;

()

b. The asset number assigned to the item of property, if applicable;

()

c. The acquisition date and date placed in service;

()

d. The basis of the property;

()

e. The location and utilization (the usage both in and outside Idaho) of the property including information identifying that the property was used for biofuel; and

()

f. The retirement, disposition, or date transferred out of Idaho, date no longer used in Idaho, or date the biofuel was no longer offered for sale on a continuous basis, if applicable.

()

02. Accounting Records Subject to Examination. Accounting records that may need

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to be examined to document acquisition, disposition, location, and utilization of assets include the following: ()

a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; ()

b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; ()

c. Records verifying ownership including purchase contracts and proof of payment; ()

d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho and the purchase of biofuel offered for resale; and ()

e. A system that verifies that property on which the biofuel infrastructure investment tax credit was claimed continues to maintain its status as qualified investment throughout the recapture period. ()

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

04. Unitary Taxpayers. Corporations claiming the biofuel infrastructure investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

768. -- 769. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).

Section 63-3029P, Idaho Code. (5-3-03)

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code;

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(3-20-97)

b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)

h. Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code; (3-15-02)

i. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

j. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)

k. Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. (3-15-02)

l. Corporate headquarters investment tax credit as authorized by Section 63-2903, Idaho Code. (4-11-06)

m. Corporate headquarters real property improvement tax credit as authorized by Section 63-2904, Idaho Code. (4-11-06)

n. Corporate headquarters new jobs tax credit as authorized by Section 63-2905, Idaho Code. (4-11-06)

o. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)

p. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)

q. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)

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r. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)

s. Biofuel infrastructure investment tax credit as authorized by Section 63-3029M, Idaho Code. ()

03. Adjustments to Credits. (4-11-06)

a. Adjustments to the amount of a credit earned shall be determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)

b. Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit shall also apply to any taxable years to which the credit was carried over. (4-11-06)

c. If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned shall not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

800. VALID INCOME TAX RETURNS (RULE 800).

Section 63-3030, Idaho Code. (3-20-97)

01. Requirements of a Valid Income Tax Return. In addition to the requirements set forth in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 150, an income tax return shall meet the requirements set forth in this rule. Those that fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be completed according to these requirements and resubmitted to the Tax Commission. A taxpayer who does not file a valid income tax return is considered to have filed no return. (3-15-02)

02. Copy of Federal Return Required. A taxpayer shall include with the Idaho return a complete copy of the federal income tax return including all forms, schedules and attachments. ~~If an individual files an Idaho Form 40EZ, a copy of the federal income tax return is not required.~~ (3-15-02)()

03. Verification of Idaho Income Tax Withheld. A taxpayer who files an Idaho individual income tax return and reports Idaho income tax withheld shall attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld. ()

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(BREAK IN CONTINUITY OF SECTIONS)

880. CREDITS AND REFUNDS (RULE 880).

Section 63-3072, Idaho Code. (3-20-97)

01. Overpayment. The term overpayment includes: (3-20-97)

a. A voluntary and unrequested payment greater than an actual tax liability. (3-20-97)

b. An excessive amount that an employer withholds pursuant to Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

c. All amounts erroneously or illegally assessed or collected. (3-20-97)

d. The term overpayment does not include an amount paid pursuant to a final determination of tax, including a compromise and closing agreement, decision of the Tax Commission, decision of the Board of Tax Appeals, or final court judgment. (3-20-97)

02. Requirements of a Valid Refund Claim. Before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish both of the following: ()

a. The basis for the credit or refund claim, and ()

b. The amount of the overpayment. ()

023. Timely Claim Required for Refund. (3-20-97)

a. The Tax Commission may not credit or refund an overpayment after the expiration of the period of limitations unless the taxpayer filed a claim before the expiration of the period. (3-20-97)

b. When an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss, capital loss, or Idaho credit in a year otherwise closed by the period of limitations, the taxpayer has one (1) year from the date of the final determination to file a claim for refund. (3-20-97)()

034. Amended Returns Required as Refund Claims. The claim for a credit or refund must be made on an amended Idaho income tax return that is properly signed and includes an explanation of each legal or factual basis in sufficient detail to inform the Tax Commission of the reason for the claim. By signing the amended return the taxpayer shall be declaring that the claim for refund is true and correct to the best of his knowledge and belief and is made under the penalties of perjury. (4-6-05)

045. Closed Issues. The Tax Commission shall deny a credit or refund claim for a taxable year for which the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of

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Deficiency or that the changes result from a final federal determination. (3-20-97)

056. Limitations on Refunds of Withholding and Estimated Payments. The Tax Commission may not refund taxes withheld from wages unless the taxpayer files a return within three (3) years after the due date. See Section 63-3072(c), Idaho Code. The Tax Commission may not refund any payment received with an extension of time to file or with a tentative return, including quarterly estimated payments, unless the taxpayer makes a claim for a refund within three (3) years of the due date of the return. (3-15-02)

067. Reduction or Denial of Refund Claims. If the Tax Commission determines that a refund claim is in error, the Tax Commission shall deny the claim in whole or part. Unless the denial results from a mathematical error by the claimant, the Tax Commission shall give notice of the denial by a Notice of Deficiency in the manner required by Section 63-3045, Idaho Code, and related rules. The protest and appeal process that applies to a Notice of Deficiency also applies to the denial or reduction of a refund. See Section 63-3045A, Idaho Code, for information on mathematical errors. (3-20-97)

078. Amended Federal Return. Filing a claim with the Internal Revenue Service to reduce taxable income does not extend the Idaho period of limitations for claiming a refund or credit of tax. If the statute of limitations is about to expire on a taxpayer's Idaho return for which an issue is pending on his federal return or return filed with another state, the taxpayer should amend his Idaho return. He should clearly identify the amended return as a protective claim for refund. The taxpayer must notify the Tax Commission of the final resolution. (7-1-98)

089. Combined Reports -- Final Federal Determination and Change of Filing Method. If the Idaho period of limitations is open due to a final federal determination, a corporate taxpayer may not adjust its Idaho return to include a previously omitted corporation or to exclude any corporation previously included in a combined report. (3-20-97)

0910. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer shall submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3072(b), Idaho Code. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

946. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION -- RECAPTURE (RULE 946).
Section 63-4407, Idaho Code. (3-30-07)

01. Failure to Meet Tax Incentive Criteria. If a taxpayer fails to meet the small

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employer tax incentive criteria, the full amount of the small employer investment tax credit, real property improvement tax credit and new jobs tax credit claimed in any taxable year shall be recaptured. (3-30-07)

02. Year Deficiency Occurs. Recapture shall be a deficiency in tax in the taxable year when the disqualification first occurs. For investment in new plant, disqualification occurs when the property is disposed of or otherwise ceases to qualify. For new employees, disqualification occurs when the ~~employment of new employees falls below the level of new employees required by Section 63-4402(2)(j), Idaho Code~~ average number of qualifying employees for a taxable year in the recapture period falls below the average number of qualifying employees for the year in which the credit was earned in Section 63-4405, Idaho Code. (3-30-07)()

03. Early Disposition of Investment in New Plant. (3-30-07)

a. If an investment in new plant is disposed of, or otherwise ceases to qualify, prior to the close of the recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. (3-30-07)

b. The recapture percentage shall be determined as follows. If the property is disposed of or ceases to qualify within: (3-30-07)

i. One (1) full year or less from the date the property was placed in service, one hundred percent (100%) shall be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the property was placed in service, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the property was placed in service, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the property was placed in service, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the property was placed in service, twenty percent (20%) shall be used. (3-30-07)

04. Failure to Maintain Increased Employment. (3-30-07)

a. If the ~~required increased level of employment~~ average number of qualifying employees for the taxable year in which the credit was earned in Section 63-4405, Idaho Code, is not maintained for the entire recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. (3-30-07)()

b. The recapture percentage shall be determined as follows. If the ~~increased~~ level of employment is maintained: (3-30-07)()

i. One (1) full year or less from the date the project period ends, one hundred percent (100%) shall be used; (3-30-07)

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ii. Two (2) full years or less, but more than one (1) full year from the date the project period ends, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the project period ends, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the project period ends, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the project period ends, twenty percent (20%) shall be used. (3-30-07)

c. Recapture shall not be required if a new employee is replaced by another employee who performs the same duties as the previous employee at a wage rate that would have resulted in the same amount of credit being earned. (3-30-07)

05. Reorganizations, Mergers and Liquidations. (3-30-07)

a. If the investment in new plant is disposed of or otherwise ceases to qualify before the close of the recapture period while in the hands of an acquiring taxpayer who succeeded to unused small employer investment tax credit or small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the acquiring taxpayer shall be responsible for any recapture that would have been applicable to the transferor. (3-30-07)

b. For purposes of computing the recapture when an acquiring taxpayer succeeded to unused small employer investment tax credit and small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the recapture period shall begin with the date on which the property was placed in service by the transferor taxpayer and shall end with the date of the disposition by, or cessation with respect to, the acquiring taxpayer. (3-30-07)

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IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 275 through 277.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
Sales Tax Administrative Rules

Docket No. 35-0102-0603
PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635, and 63-3039.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 068: Amend the dates for the schedules to reflect the 6% tax rate.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

In accordance with Section 67-5221(1) this docket is being published as a Proposed Rule.

**This docket has been previously published as a Temporary Rule.
The temporary effective date is November 1, 2006.**

**The text of the Temporary Rule was published in the Idaho Administrative Bulletin,
Volume 06-12, December 6, 2006, pages 117 through 119.**

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IDAHO STATE TAX COMMISSION
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Docket No. 35-0102-0603
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

068. COLLECTION OF TAX (RULE 068).

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax To Be Collected by Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System for Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale ~~beginning~~ if the sales tax rate is 5%. The 5% tax rate was in effect from July 1, 2005, through September 30, 2006. (4-11-06)()

- a. Multiply five cents (\$0.05) for every whole dollar included in the sale, and (7-1-93)
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.05	- .00
0.06 - 0.25	- .01
0.26 - 0.45	- .02
0.46 - 0.65	- .03
0.66 - 0.85	- .04
0.86 - 0.99	- .05

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (7-1-93)

05. Bracket System for Six Percent Tax Rate. Beginning ~~May 1, 2003, and ending June 30, 2005~~ October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (4-11-06)()

- a. Multiply six cents (\$0.06) for every whole dollar included in the sale, and

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(3-20-04)

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.03	- .00
0.04 - 0.20	- .01
0.21 - 0.37	- .02
0.38 - 0.53	- .03
0.54 - 0.70	- .04
0.71 - 0.87	- .05
0.88 - 0.99	- .06

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (3-20-04)

06. Tax to Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

07. Reimbursement of Tax From the Purchaser to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 278 through 299.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
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PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635, and 63-3039.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 010: Amend to define “tax rate” as the current rate in effect and explain that references to the rate may not reflect the current rate. Also, define “fleet” to be one or more vehicles registered under the International Registration Plan as required by Section 63-3622R, Idaho Code.

Rule 015: Amend to state that pumps supplying water to land and buildings will generally be considered fixtures. The Tax Commission has often treated pumps as personal property depending on where they are installed and how they are used. Pumps used in manufacturing and other industrial or commercial process will generally be considered personal property and their use will therefore qualify for the production exemption, Section 63-3622D, Idaho Code.

Rule 041, 058, 073: Delete references to a specific tax rate.

Rule 063: Amend examples to change the 5% rate to 6%.

Rule 085: Add statements to clarify that the primary purpose of organizations claiming the exemption must be the provision of free dental care to children; that the primary use of the items purchased must be for the provision of free dental care to children; that children are persons under the age of 18.

Rule 106: Change the word “average” to “clean.” The NADA now calls the “average retail price” the “clean retail price.”

Rule 107: Incorporates by reference the definition of “trailer” in the Motor Vehicle Code, Idaho Code §§ 49-121 and 49-122.

Rule 109: Add a statement clarifying that an increase in the permit fee for amusement devices will be effective on the following July 1 if an increase in the tax rate takes place on a date other than July 1.

Rule 117: Add language to clarify refund claims must state the amount of the refund.

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Rule 135: New proposed rule to specify the exemption of sales of aerial tramways, snow making, and snow grooming equipment applies to component parts of snow making and snow grooming equipment. The statute is unclear as to whether the exemption is intended to apply to sales of component parts of snow making and snow grooming equipment. The legislative history shows that the statute actually was intended to include these component parts.

Rule 136: New proposed rule to specify that retailers located in a qualifying shopping center must file a separate return for that location only, that sales information from retailers located in such shopping centers may not be released to the public, and that the developer must provide the names and tax identification numbers of the retailers located in a qualifying shopping center.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS (RULE 010).

01. Admissions. The term admissions includes the right or privilege to enter into a place including seats and tables reserved or otherwise and other similar accommodations and charges made therefor. (7-1-93)

02. Aircraft. The term aircraft means any contrivance now known or hereafter

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invented, used, or designed, for navigation of or flight in the air. (7-1-93)

03. Cash Discount. The term cash discount means a discount offered by a retailer to a purchaser as an inducement for prompt payment. (7-1-93)

04. Contractor Improving Real Property. A contractor is any person acting as a general contractor, subcontractor, contractee, subcontractee, or speculation contractor, spec contractor, who uses material and equipment to perform any written or verbal contract to improve, alter, or repair real property. (7-1-93)

05. Fleet. The term fleet shall mean one (1) or more vehicles registered under the International Registration Plan or a similar proportional registration system. ~~(7-1-93)~~()

06. Hand Tool. A hand tool is an instrument used or worked by hand. (7-1-93)

07. Logging. The term logging includes the harvesting of forest trees for resale by cutting, skidding, loading, thinning, or decking, regardless of whether the forest trees are owned by the person doing the harvesting. The term logging does not include harvesting timber for firewood. (7-1-93)

08. Manufactured Home/Mobile Home. The term manufactured home, previously known as a mobile home, means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this section except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. 5401, et seq. (7-1-93)

09. Manufacturer's Discount Coupon. The term manufacturer's discount coupon means a price reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product, the face value of which may only be reimbursed by the manufacturer to the retailer. (7-1-93)

10. Manufacturer's Rebates. The term manufacturer's rebate means a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer. (7-1-93)

11. Mining. The term "mining" means the extraction from the earth of minerals including coal, phosphate, sodium, molybdenum, asbestos, gold, silver, lead, zinc, copper, antimony, building stone, pumice, scoria, clay, diatomaceous earth, sand, gravel, quartz, limestone, and marble, and includes the further processing of such mineral. The term "mining" does not include the extraction from the earth of geothermal resources nor does it include the extraction of soil. (6-23-94)

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12. Modular Building. The term modular building, previously known as a prefabricated building, means any building or building component, other than a manufactured home as defined, above, which is constructed according to standards contained in the Uniform International Building Code, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site, and is designed to be affixed to real property. (7-1-93)()

13. Office Trailer. An office trailer is a structure which is built on a permanent chassis, is transportable in one (1) or more sections, and is designed for use as an office. (7-1-93)

14. Orthopedic Appliances. The term orthopedic appliance shall include those braces and other external supports prescribed by a practitioner for the purpose of correction or relief of defects, diseases, or injuries to bones or joints. (7-1-93)

15. Prescription or Work Order. The terms prescription or work order shall mean an order issued to, or on behalf of, a specific individual by a practitioner licensed by the state under Title 54, Idaho Code, to prescribe such items. (7-1-93)

16. Real Property. The term real property means land and improvements or fixtures to the land. (7-1-93)

17. Tax Rate. The terms "tax rate" or "rate" means the current tax rate as defined in Sections 63-3619 and 63-3621, Idaho Code. References to the tax rate in these rules may not reflect the current rate in effect. ()

(BREAK IN CONTINUITY OF SECTIONS)

015. WELL DRILLERS/PUMP INSTALLERS (RULE 015).

01. In General. This rule is meant to explain how Idaho sales and use tax applies to contractors who drill wells and install pumps. The general principles in ~~ISTC~~ Rule 012 of these rules, Contractors Improving Real Property, also apply to well drillers and pump installers and should be reviewed along with this rule. (7-1-93)()

02. Types. The types of wells covered by this rule include, but are not limited to: (7-1-93)

a. Water wells, including those for municipal, domestic, commercial, and industrial purposes, and wells used for agricultural irrigation. (7-1-93)

b. Monitor wells used to check for contamination or to find the water table. (7-1-93)

c. Anode wells used to ground power or gas lines. (7-1-93)

d. Construction wells used for pilings, shoring, and elevator hoists. (7-1-93)

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03. Contractor Improving Real Property. A well driller/~~pump-installer~~ is a contractor improving real property. In general, he is subject to sales or use tax on materials and equipment he owns and uses or over which he exercises right or power while performing a contract. He should not charge sales tax on materials, such as casing, pumps, screens, piping, etc., used to complete a well. Section 63-3609(a), Idaho Code, states that these materials are consumed by the well driller/~~pump-installer~~. He is subject to tax even if the owner of the material is exempt from the tax, such as a government agency. Well drillers/~~pump-installers~~ may be responsible for use tax on owner-supplied materials. See ISTC Rule 012. Exemptions are discussed in ISTC Rule Subsection 015.05 of this rule. Pumps that are installed with a well, such as a pump that supplies water to land or a building, are presumed to be real property improvements. Pumps that do not supply water to land or buildings and are used in commercial or industrial applications will generally be considered personal property unless they have been so integrated into the real estate that they would be considered a permanent fixture. (7-1-93)()

a. Example: A well driller/~~pump-installer~~ contracts to drill a water well and install a pump for a homeowner. He bills the homeowner separately for materials and labor as well as the drill bits he used. He should pay sales or use tax on his purchase of the materials and drill bits. ~~Sales tax~~ He should not ~~be~~ charged sales tax to the customer since this is a contract to improve real property. (7-1-93)()

b. Example: A well driller/~~pump-installer~~ contracts to drill a well for an Idaho city. He must pay sales or use tax on the materials and pumps used to complete the well, even though the eventual owner of these items is a governmental entity. See Rule 094 of these rules. (7-1-93)()

04. Well Drillers/Pump Installers as a Retailer. In some cases, a well driller/~~or~~ pump installer also may be a retailer. For instance, he may sell casing, pumps or pump parts with no installation. In this case, he must have a seller's permit number, collect sales tax, and file sales tax returns, just like any other retailer. For more information on contractor/s who are also retailers, see ~~ISTC~~ Rule 014 of these rules. (7-1-93)()

05. Exemptions. In some cases, exemptions may apply to materials installed by well drillers and pump installers. Note: These exemptions apply only to project materials and not to construction equipment and supplies, such as drilling rigs and drill bits. If a well driller/~~or~~ pump installer makes exempt purchases, he must complete an exemption certificate for the vendor's records. (7-1-93)()

a. Materials installed in a well which will be used primarily for agricultural irrigation are exempt under Section 63-3622W, Idaho Code. The exemption applies even if the materials become part of the real property. Agricultural irrigation includes supplying water to crops, livestock, and fish which are produced for resale. (7-1-93)

b. Pumps and other equipment used directly in manufacturing or processing are exempt under Section 63-3622D, Idaho Code. Generally, such pumps retain the characteristics of personal property. This exemption applies only to tangible personal property. It does not apply to materials which will become part of real property. Examples include: pumps used directly in food processing; booster pumps and chlorine pumps used directly in manufacturing; and dairy waste pumps. (7-1-93)()

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06. Motor Vehicles. In general, drilling rigs and licensed motor vehicles are subject to sales or use tax when purchased by a well driller ~~or~~ pump installer. However, if a vehicle weighs more than twenty-six thousand (26,000) pounds, is used more than ten percent (10%) of the time outside of Idaho, and is registered under the International Registration Plan or similar pro rata plan, its purchase is exempt. See ~~ISTC~~ Rule 101 of these rules. This exemption does not apply to repair parts for motor vehicles, or to drilling rigs purchased separately from a motor vehicle.

(~~7-1-93~~)()

07. Fuel. Motor fuel taxes do not apply, or a refund may be obtained, if the fuel is used to run drilling rigs or other off-road equipment. Fuel purchased for such off-highway use is subject to sales or use tax. See Sections 63-2410 and 63-2423, Idaho Code, and related IDAPA 35.01.05, "Idaho Motor Fuels Tax Rules."

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

041. FOOD, MEALS, OR DRINKS (RULE 041).

01. In General. This rule covers the imposition of tax on sales of food, meals, or drinks by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations.

(7-1-93)

02. Commercial Establishments. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public.

(7-1-93)

03. Clubs and Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations must obtain an Idaho seller's permit and report and pay retail sales tax on all sales. Taxability of membership dues depends upon the nature of the club. See Rule 030 of these rules. Special rules apply to religious organizations. See Rule 086 of these rules.

(3-15-02)

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. For example:

<i>Dinner, dancing, etc.</i>	<i>\$ 8.00</i>
<i>Tax</i>	<i>.40</i>
<i>Registration, speakers, etc.</i>	<i>\$ 6.60</i>
<i>Total Ticket</i>	<i>\$15.00</i>

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an organization holds a dinner dance in its own building. It charges twenty dollars (\$20) for dinner and dancing and twelve dollars (\$12) for registration and speakers. Since the two (2) amounts are stated separately, tax is only imposed on twenty dollars (\$20). The amount of the tax must also be stated separately. Sales of meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable. ~~(4-11-06)~~()

b. The organization holding the function or convention must obtain a seller's permit and remit tax to the state. When the charges are not separated, the total price of the ticket is taxable. (7-1-93)

c. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will remit the tax to the state. (7-1-93)

04. Colleges, Universities, and Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (7-1-93)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board must be separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of meals. (7-1-93)

b. Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code. (7-1-93)

05. Fraternities, Sororities, and Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and subject to sales tax. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. (7-1-93)

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are subject to sales tax. (7-1-93)

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become subject to tax and the fraternity or sorority must obtain an Idaho seller's permit. (7-1-93)

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals are prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities

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apply to cooperative living groups. (4-11-06)

06. Boarding Houses. Sales of meals furnished by boarding houses are subject to tax, when they are charged separately. This applies whether or not the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place is not considered to be selling meals, but is the consumer of the items used in preparing such meals. (7-1-93)

07. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are subject to sales tax. (7-1-93)

a. Sales tax applies to the ~~gross receipts~~ total sales. The posted price must include a statement that sales tax is included. (7-1-93)()

b. The formula for computing the taxable amount is: ~~(Gross Receipts) / (one hundred five percent (105%)) = Taxable Sales. (Taxable Sales) x (five percent (5%)) = Tax Due~~ TS / (100% + TR) where TS is total sales and TR is the tax rate. (4-11-06)()

08. Church Organizations. Special rules apply to religious organizations. See Rule 086 of these rules. (4-11-06)

09. Senior Citizens. Meals sold under programs that provide nutritional meals for the aging under Title III-C of the Older Americans Act, Public Law 93-29, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals must obtain an Idaho seller's permit and collect sales tax when selling meals to purchasers who are not senior citizens. (7-1-93)

10. Nontaxable Purchases by Establishments Selling Meals or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. A resale certificate must be provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include: (3-15-02)

a. Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)

b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)

c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (7-1-93)

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11. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is subject to the tax when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include: (7-1-93)

a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)

b. Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)

c. Complimentary candies, popcorn, drinks, or food, when patrons are not required to purchase other food, meals, or drinks in order to receive the complimentary goods. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

058. SALES THROUGH VENDING MACHINES (RULE 058).

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine shall mean any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a purchaser who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules. (5-3-03)

02. Amount Subject to Tax. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents (\$0.12) through one dollar (\$1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar (\$1) are taxable on the retail sales price. Sales of items for a price of eleven cents (\$0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code. (5-3-03)

03. Requirement to Obtain a Seller's Permit. Vendors who sell tangible personal property through a vending machine must obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor must conspicuously display the vendor's name, address, and seller's permit number. When a number of vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. (5-3-03)

04. Calculation of Tax. The following examples show how vending machine operators shall calculate the amount of sales tax due: (5-3-03)

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a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents (\$0.12) or more but none are sold for a price greater than one dollar (\$1). During the month of July, Corporation A's ~~gross receipts~~ total sales from the vending machine sales were ten thousand dollars (\$10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars (\$8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

Line 1.	Total sales	\$ 9,360
Line 2.	Less nontaxable sales	\$ 0
Line 3.	Net taxable sales	\$ 9,360
Line 1 computed as follows:		
	8,000 x 117%	= \$ 9,360

(3-20-04)()

b. Example 2: During the month of July, Corporation B had total Idaho sales in the amount of ten thousand dollars (\$10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars (\$2,000). The remaining eight thousand dollars (\$8,000) constituted sales through vending machines, of which one thousand dollars (\$1,000) was for items with a unit retail price of over one dollar (\$1). The other seven thousand dollars (\$7,000) were sales of items through vending machines with a unit retail price of fifty cents (\$0.50) each. The items sold during the month for fifty cents (\$0.50) each were purchased by Corporation B for five thousand dollars (\$5,000). ~~Corporation B should file a sales and use tax return for the month, computing and reporting its taxable sales as follows:~~

Line 1.	Total sales	\$ 8,793.40
Line 2.	Less nontaxable sales	\$ 0
Line 3.	Net taxable sales	\$ 8,793.40
Line 1 computed as follows:		
	2,000 + (1,000 ÷ 1.06) + (5,000 x 117%)	= \$ 8,793.40

The amount to report as taxable sales is:

Taxable Sales = \$2,000 (over the counter items) + \$5,850 (\$5,000 of purchases of items selling for \$0.50 x 117%) + (\$1,000 ÷ (1 + tax rate expressed as a decimal) (items sold through vending machines for more than one dollar (\$1)). Assuming a 6% tax rate this amount would be \$1,000 divided by 1.06 or \$943.40.

Note that if a vendor sells some items for more than one dollar (\$1) the sales tax is included in the total ~~receipts~~ sales. This amount must be divided by one (1) plus the current tax rate expressed as

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a decimal, to determine the ~~receipts~~ sales before sales tax. ~~If the tax rate is five percent (5%) the divisor is one and five one hundredths (1.05).~~ (4-11-06)()

- 05. Cross-References. (7-1-93)
 - a. Amusement devices, see Rule 109 of these rules. (5-3-03)
 - b. Money operated dispensing equipment, see Rule 095 of these rules. (5-3-03)
 - c. Sales of newspapers through vending machines, see Rule 033 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

063. BAD DEBTS AND REPOSSESSIONS (RULE 063).

01. In General. Sales tax must be collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (7-1-93)

02. Rules for Unsecured Credit Sales. The following rules apply to unsecured credit sales: (7-1-93)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, he may make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. (7-1-93)

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought must be included in the amount which is financed and which is charged off as a bad debt for income tax purposes. (6-23-94)

c. A written claim for the refund may also be filed with the State Tax Commission within three (3) years from the time the tax was paid to the State Tax Commission. The State Tax Commission will review all such refund claims. See Rule 117 of these rules, Refund Claims. (3-20-04)

03. Rules for Secured Credit Sales. The following rules apply to secured credit sales: (7-1-93)

a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale. (7-1-93)

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. (7-1-93)

c. If the collateral is repossessed and seasonably resold at public or private sale, then

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the seller is entitled to a bad debt adjustment. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral. (3-30-01)

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (7-1-93)

04. Application to Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or are not required to file income tax returns. (7-1-93)

a. Retailers are required to remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. (7-1-93)

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it has not been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule, even though the bad debt does not appear on the retailer's income tax return. (7-1-93)

c. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule. (6-23-94)

d. As these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence must be attached to the sales tax return to prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer did not receive payment of the tax from the buyer. (7-1-93)

05. Amount of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (7-1-93)

a. Example: Assume the tax rate is six percent (6%). A retailer sells a thirty thousand dollar (\$30,000) forklift for thirty-one thousand ~~five~~ eight hundred dollars (\$31,5800) including sales tax. The purchaser pays a five thousand dollar (\$5,000) down payment and finances the balance. The purchaser later defaults and the retailer repossesses the forklift and sells it at a public auction for six thousand dollars (\$6,000). At the time of repossession the purchaser owes seventeen thousand ~~two~~ five hundred forty-five dollars (\$17,2545) including the financed sales tax. After the sale the amount that the retailer writes off is eleven thousand ~~two~~ five hundred forty-five dollars (\$11,2545). The sales tax bad debt write off is ~~five~~ six hundred ~~thirty-five~~ fifty-three dollars (\$~~535~~653).

Total taxable sale	\$30,000
5% sales tax	\$1,5 <u>8</u> 00
Total sale	\$31,5 <u>8</u> 00

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Down payment	(\$5,000)
Total financed	\$26, 58 00
Payment to principal after sale	(\$9,255)
Amount realized at public sale	(\$6,000)
Total bad debt	\$11, 25 45
Sales tax portion of bad debt	
$\$11,2545 - (11,2545 / 1.056) = \$ 535 653$	

(~~4-11-06~~)()

b. Example: A car dealer makes a taxable sale of an automobile for fourteen thousand nine hundred dollars (\$14,900) along with an extended warranty for five hundred dollars (\$500), a documentation fee of one hundred dollars (\$100), a title fee of eight dollars (\$8) and credit insurance for one hundred dollars (\$100). The customer pays one thousand dollars (\$1,000) cash and trades in a car worth ten thousand dollars (\$10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars (\$6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar (\$10,~~850~~908) loan after paying five hundred dollars (\$500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars (\$5,000) of the total fifteen thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar (\$15,~~850~~908) cost was taxable.

Sales price of vehicle	\$14,900
Documentation fee	\$100
Extended warranty	\$500
Credit insurance	\$100
Title fee	\$8
Trade-in	(\$10,000)
Sales tax	\$250 300
Subtotal	\$5,858 <u>5,908</u>
Down payment	(\$1,000)
Invoice total	\$4,858 <u>4,908</u>
Amount financed	\$10,850 <u>908</u>
Payment to principal after sale	(\$500)
Amount of bad debt	\$10,350 <u>408</u>
Amount of down payment used to pay sales tax:	
$(\$250 300 / \$5,858908) = 4.27 5.08\%$	
$0427.0508 \times \$1,000 = \$42.70 50.80$	
Amount of sales tax financed:	
$\$250 300 - \$042750.80 = \$207.30 249.20$	

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Percentage of loan representing sales tax: $\$207.30 \underline{249.20} / \$10,850.08 = 1.91 \underline{2.28\%}$
Sales tax paid by payments to principal: $\$500 \times 0.04 \underline{0.228} = \$ \underline{9.55 \underline{11.40}}$
Amount of bad debt write-off: $\$207.30 \underline{249.20} - \$9.55 \underline{11.40} = \$ \underline{197.75 \underline{237.80}}$

(4-11-06)()

06. Bad Debt Collected at a Later Date. If a bad debt account is collected later, the retailer must pay tax on the amount collected. (7-1-93)

07. To Claim Credit for a Bad Debt. Credit for bad debts for sales tax purposes may be claimed by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may claim a bad debt for sales tax on property for which they provided financing, if the amount financed includes the sales tax remitted on the sale of the property. The person claiming the credit must be the person who ultimately bears the loss if the purchaser of the property defaults on the obligation to repay. (3-30-01)

08. Cross-Reference. Rescinded Sale. See Rule 045 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

073. TANGIBLE PERSONAL PROPERTY BROUGHT OR SHIPPED TO IDAHO (RULE 073).

01. Equipment Brought into Idaho. Equipment or other tangible personal property brought or shipped to Idaho by residents or nonresidents is presumed to be for storage, use, or other consumption in this state. Generally, tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. Special rules apply to transient equipment present in Idaho for ninety (90) days or less in any consecutive twelve (12) month period. See Section 63-3621A, Idaho Code, and Subsection 073.03 of this rule. For property a contractor fabricates to install into Idaho real property, see Rule 012 of these rules. (4-11-06)

02. Substantive Use. Any substantive use of the property in Idaho is sufficient to subject the property to use tax. Use is defined in Section 63-3615, Idaho Code, and Rule 072 of these rules. The use tax does not apply to the use of items purchased before July 1, 1965, or the use of items excluded from tax by Idaho Code. (3-20-04)

03. Transient Equipment. Transient equipment means equipment that is: owned by the user, which is a business based in another state; a depreciable asset for income tax purposes and treated as such on the owner's income tax returns; brought to Idaho and kept here for ninety (90) days or less in any consecutive twelve (12) months; and either was not taxed in another state or, if tax was paid to another state, the amount paid was less than the amount of Idaho use tax due. (7-1-93)

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a. A nonresident business that brings transient equipment to Idaho may elect to pay use tax on either the fair market value of the equipment at the time it enters Idaho, or the fair market rental value of transient equipment for the time it is kept in Idaho. Fair market rental value is the amount it would cost to rent or lease similar equipment from an unrelated equipment rental company. (3-20-04)

b. Businesses that elect to pay use tax on the rental value of transient equipment may do so without the approval of the Tax Commission as long as the use tax due on the first month's rental is paid in a timely manner. If the owner fails to pay the tax timely, he must get written approval from the Tax Commission to use this option. (7-1-93)

c. Equipment which remains in Idaho for more than ninety (90) days in any consecutive twelve (12) months is no longer transient. This equipment becomes subject to Idaho use tax on its fair market value at that time. No credit may be taken for use tax paid on fair market rentals against the use tax due at the time equipment ceases to qualify as transient. (7-1-93)

d. Example: A Wyoming contractor brings transient equipment, with a fair market value of one hundred thousand dollars (\$100,000), to Idaho for use on a ninety (90) day project. The fair market rental value of the equipment for the ninety (90) days totals fifteen thousand dollars (\$15,000). Idaho use tax on the fair market rental value, ~~at the~~ assuming a rate of ~~five~~ six percent (~~56~~%), totals ~~seven~~ nine hundred ~~fifty~~ dollars (\$~~75900~~). The contractor paid three thousand five hundred dollars (\$3,500) of sales tax to the state of Wyoming when he bought the equipment new. The contractor is not required to pay tax to Idaho since the tax paid to Wyoming exceeds the amount of Idaho use tax due. (~~4-11-06~~)()

e. Example: The same contractor ~~takes a second job~~ in the previous example returns to Idaho within the same twelve (12) months ~~and brings with~~ the same equipment, now with a fair market value of ninety-five thousand dollars (\$95,000), to Idaho for the job. As the equipment has now exceeded the ninety (90) day rule for transient equipment, it is subject to Idaho's ~~five~~ six percent (~~56~~%) use tax on its ~~fair market present~~ value of ninety-five thousand dollars (\$95,000) x ~~five~~ six percent (~~56~~%) = ~~four~~ five thousand seven hundred ~~fifty~~ dollars (\$~~45,7500~~). Credit of two thousand ~~seven hundred fifty~~ six hundred dollars (\$~~2,75600~~) is allowed for sales tax paid to Wyoming, three thousand five hundred dollars (\$3,500) less the ~~seven~~ nine hundred ~~fifty~~ dollar (\$~~75900~~) credit already used on rentals. The contractor owes ~~two~~ three thousand ~~one hundred~~ dollars (\$~~2,000~~ 3,100) of use tax to Idaho. (~~4-11-06~~)()

04. **Licensed Motor Vehicles.** A motor vehicle licensed in a nonresident's home state and brought to Idaho to use for ninety (90) days or less in any consecutive twelve (12) months is not subject to Idaho use tax. Once the vehicle is used here more than ninety (90) days during any consecutive twelve (12) months, use tax applies to the fair market value of the vehicle at that time unless tax was paid to another state in an amount equal to, or greater than, the tax owed to Idaho. Special rules apply to new residents of Idaho. See Rule 107 of these rules. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

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085. SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS (RULE 085).

01. In General. The Sales Tax Act does not provide any general exemption for, charitable or nonprofit organizations, corporations, associations or other entities. Specific statutory provisions provide exemptions for some charitable organizations. Unless an exemption is clearly granted to a specific organization or to specific sales or purchases by a specific organization or a class of organization, no exemption applies. Special rules apply to religious organizations. See Rule 086 of these rules. (3-6-00)

02. Educational Institutions. Sales to and purchases made by non-profit educational institutions, as defined in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. (3-6-00)

03. Health Related Entities. Sales to and purchases made by the specific health related entities listed in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. Health related organizations not named are not entitled to any exemption from sales and use taxes as a health related entity. (3-6-00)

04. Hospitals. In addition to the health related entities listed in Section 63-3622O, Idaho Code, hospitals which are nonprofit institutions licensed for the care of ill persons are exempt. To qualify for the exemption the hospital must be a facility defined in Section 39-1301(a), Idaho Code, and licensed as provided in Chapter 13, Title 39, Idaho Code, or an equivalent law in another state. Hospitals operated for profit do not qualify for this exemption, nor do nursing homes, clinics, doctors' offices, or similar facilities unless the organization qualifies for an exemption under Section 63-3622O, Idaho Code. (3-6-00)

05. Idaho Foodbank Warehouse, Inc. The Idaho Foodbank Warehouse, Inc. is a nonprofit corporation which gathers food and food products at one (1) central location for distribution to food banks throughout Idaho. All sales to, donations to, and purchases by the Idaho Foodbank Warehouse, Inc., are exempt from sales and use taxes. (3-6-00)

a. Example 1: The XYZ Corporation purchases food from a grocer to donate to the Idaho Foodbank Warehouse, Inc. The XYZ Corporation must pay sales tax on the purchase since they are not purchasing the food for resale and no other exemption applies. (3-6-00)

b. Example 2: The Idaho Food Bank Warehouse, Inc. purchases office supplies. No tax is due on the purchase. (3-6-00)

06. Food Banks and Soup Kitchens. Food banks or soup kitchens are nonprofit organizations, other than the Idaho Foodbank Warehouse, Inc., which, as one of their regular activities, furnish food to others without charge. Sales to, donations to, and purchases of food or tangible personal property used by food banks and soup kitchens other than the Idaho Foodbank Warehouse, Inc. to grow, store, prepare, or serve food are exempt from sales and use taxes. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. This exemption does not extend to the sale, purchase, or use of licensed motor vehicles by food banks or soup kitchens. (3-6-00)

a. Example 1: A grocer removes food from his inventory of goods held for resale to

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donate to a food bank or soup kitchen. The grocer is exempt from the use tax on his cost of the inventory donated. (3-6-00)

b. Example 2: The XYZ Corporation purchases food from a grocer to donate to a food bank. The XYZ Corporation is not purchasing the food items for resale, and no other exemption from sales tax applies. Sales tax must be paid on the purchase. (7-1-93)

c. Example 3: A food bank purchases a licensed motor vehicle. The purchase is subject to sales tax because the motor vehicle is not used to grow, prepare, or serve food. (3-6-00)

07. Red Cross. Sales to the American Red Cross are exempted from state sales tax by federal law. (7-1-93)

08. Nonsale Clothiers. Nonprofit organizations, one of whose primary functions is to provide clothing to the needy without charge, may purchase the clothing without paying tax. Only clothing qualifies for the exemption. Other purchases by the organization are taxable. Clothing may also be removed from a resale inventory and donated to these organizations exempt from use tax. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. (3-6-00)

a. Example 1: A department store removes clothing from resale merchandise to donate to a nonprofit, nonsale clothier. The store is exempt from the use tax on the cost of the inventory donated. (7-1-93)

b. Example 2: A nonprofit, nonsale clothier purchases clothing and bed sheets from a department store to give to the needy. No tax is due on the clothing, but the store must charge the organization sales tax on the bed sheets. (7-1-93)

09. Exemption Certificate. The organizations listed in this rule may make purchases without paying sales tax to the vendor by completing an exemption certificate. See Rule 128 of these rules. (3-6-00)

10. Literature. The sale, purchase, use, or other consumption of literature, pamphlets, periodicals, tracts, books, tapes, audio CDs, and other literature which is produced in a machine readable format that are both published and sold by an entity qualified under Section 501(c)(3) of the Internal Revenue Code are exempt from the tax if no part of the net earnings benefits any individual or shareholder. (3-6-00)

11. Sales by Nonprofit Organizations. An exemption from sales tax on sales to one of the foregoing entities does not constitute an exemption from the requirements to collect and remit tax when the entity makes taxable sales to purchasers not exempt from tax. When an exempt organization qualifies as a retailer the organization must register with the State Tax Commission, obtain a seller's permit, and collect and remit sales taxes on sales as defined in Section 63-3612, Idaho Code, in the same manner and in accordance with the same statutes and rules which govern all other retailers in the state. There are two (2) exceptions to this rule. (3-6-00)

a. Sales of places to sleep by the Idaho Ronald McDonald house are exempt from sales taxes. (3-6-00)

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b. Sales of admissions by an entity qualified under Section 501(c)(3) of the Internal Revenue Code, or by an organization conducting an exempt function defined in Section 527 of the Internal Revenue Code when: (3-6-00)

i. The event is not predominately recreational or commercial; and (3-6-00)

ii. Any entertainment value included in the admission charge is minimal when compared to the charge for admission; and (3-6-00)

iii. Such entity has paid a sales or use tax on taxable purchases or tangible personal property or services consumed during the event. (3-6-00)

12. Senior Citizen Centers. ~~Beginning July 1, 2002, s~~ Sales to certain senior citizen centers are exempt from sales tax. The definition of "senior citizen center" in Section 63-3622O, Idaho Code, is the same as the definition of a "multipurpose senior center" as defined in the Older Americans Act, Title 42, Section 3002, United States Code. To qualify for the exemption the center must have been granted exempt status pursuant to Section 501(c) (3) of the Internal Revenue Code. Long-term care facilities do not qualify for this exemption. ~~(5-3-03)~~()

13. Free Dental Clinics. Sales to and purchases by organizations providing free dental care to children are exempt from sales and use tax. For the purposes of this exemption "children" shall mean persons under the age of eighteen (18). To qualify for the exemption property or services must be: ()

a. Purchased by an organization whose primary purpose is providing free dental care to children; and ()

b. Primarily used by an organization whose primary purpose is providing free dental care to children. ()

(BREAK IN CONTINUITY OF SECTIONS)

106. MOTOR VEHICLES SALES, RENTALS, AND LEASES (RULE 106).

01. In General. The sale, lease, rental, or purchase of a motor vehicle is subject to sales and use tax. Retailers, lessors, and dealers are required to collect the tax. (7-1-93)

02. Forms. The forms required for sales and use tax collection and reporting include the following, with modifications that may be required from time to time: (7-1-93)

a. The title application form required by the Idaho Transportation Department. (7-1-93)

b. Form ST-133, Sales Tax Exemption Certificate-Transfer Affidavit, used for gifts of motor vehicles, sales between family members, and sales to enrolled members of an Indian tribe

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within the boundaries of an Indian reservation. (7-1-93)

c. Form ST-104-MV, Sales Tax Exemption Certificate-Vehicle, used by persons claiming exemption under Section 63-3622, Idaho Code. (7-1-93)

d. Other forms that may be required by the Tax Commission or the Idaho Transportation Department. (7-1-93)

03. Vehicles Purchased from Idaho Dealers. When a dealer of new or used motor vehicles sells any motor vehicle for delivery in Idaho, he must collect sales or use tax at the rate in effect on the date the motor vehicle is delivered to the buyer, unless an exemption applies. He must also prepare a title application form and include the dealer's Idaho seller's permit number, gross sales price, trade-in allowance, net sales price, and total tax collected. A title application form which is completed by the dealer and displays Idaho sales tax collected is evidence that the buyer paid sales tax to the dealer. (7-1-93)

04. Vehicles Purchased from Out-of-State Dealers. Title applications for vehicles purchased from out-of-state dealers must be made according to Idaho Transportation Department instructions. Any trade-in allowance must be shown on the original bill of sale, voucher, or other receipt from the out-of-state dealer. If sales tax was correctly paid to a dealer in another state, a credit is allowed against sales or use tax payable to Idaho. ~~Refer to ISTC~~ See Rule 107 of these rules. (7-1-93)()

05. Vehicles Purchased from Nondealers. (7-1-93)

a. Title applications for vehicles purchased from nondealers, who are not required to have an Idaho seller's permit, must be made according to Idaho Transportation Department instructions. The buyer must present a bill of sale or receipt as proof of the gross sales price. Canceled checks will not be accepted in lieu of a bill of sale. In the absence of a bill of sale, sales tax is collected on the value established as the ~~average~~ "clean retail price" in the most recent National Automobile Dealers Association (NADA). Official Used Car Guide, published by the National Automobile Dealers Used Car Guide Company. Where there is a sale by a nondealer, a trade-in allowance is not allowed. See ~~ISTC~~ Rule 044 of these rules. The county assessor or Idaho Transportation Department must collect sales tax on the gross sales price and remit the tax to the Tax Commission. Barter of motor vehicles are taxable on the full value of each vehicle or other property which is the object of barter. Sales tax shall be collected on the value established as the ~~average~~ "clean retail price" stated for similar makes and models with comparable options in the most recent NADA Official Used Car Guide. (7-1-93)()

b. A retailer required to have an Idaho seller's permit must collect the sales tax when selling a motor vehicle, even though he is not licensed as a motor vehicle dealer. The retailer must give the buyer the title to the motor vehicle, properly completing title transfer information on the title, including the retailer's seller's permit number as proof that Idaho sales tax was collected. The retailer must also give the buyer a bill of sale stating: the date of sale; the name and address of the seller; the complete vehicle description including the VIN, vehicle identification number, which must agree with the VIN on the title; the person to whom the vehicle was sold; the amount for which the vehicle was sold; and the amount of sales tax charged. (7-1-93)

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c. A retailer is not relieved of the responsibility for collecting the tax unless he can provide satisfactory evidence to the Tax Commission that the buyer paid tax to the county assessor or Idaho Transportation Department. If a retailer fails to collect the tax from the buyer, the county assessor or Idaho Transportation Department must collect the tax. (7-1-93)

06. Vehicles Rented or Leased. (7-1-93)

a. A lease-purchase and lease with option to purchase have separate definitions and tax applications. See ~~ISTC~~ Rule 024 of these rules. A lease-purchase is subject to sales or use tax on the full purchase price at the time the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy. The information in ~~this~~ Section 106 deals with rentals, true leases, and leases with an option to buy. (7-1-93)()

b. The lessor of a motor vehicle is a retailer and must collect sales tax from the lessee on any rental or lease payment on the date it is required to be made, at the tax rate in effect on that date. The lessor must also collect tax on any lessee's exercise of an option to buy based on the full purchase price or residual, at the tax rate in effect on the date title is transferred to the lessee. (7-1-93)

c. The lessor may not rely on the county assessor or the Idaho Transportation Department to collect sales or use tax if the purchase option is exercised. (7-1-93)

d. The lessor must collect sales tax on each lease payment received from the renter or lessee and remit the tax to the state. The sales tax is applicable whether the vehicle is leased or rented on an hourly, daily, weekly, monthly, mileage, or any other basis. (7-1-93)

e. If the lessor is responsible for maintaining the vehicle and this is stated in the lease or rental agreement, tax does not apply to his purchase of necessary repair parts. (7-1-93)

f. Out-of-state lessors must obtain a seller's permit and comply with this rule. If the county assessor or Idaho Transportation Department cannot verify that the lessor is properly registered to collect the tax, title and registration will be denied. (7-1-93)

g. When a vehicle is traded in as part payment for the rental or lease of another vehicle, a deduction is allowed before computing the sales tax. The methods of applying the trade-in value to the lease are found in ~~ISTC~~ Rule 044 of these rules. (7-1-93)()

07. Cross-References. (7-1-93)

a. ~~ISTC~~ See Rule 024 of these rules. Rentals or leases of tangible personal property. (7-1-93)()

b. ~~ISTC~~ See Rule 044 of these rules. Trade-ins, trade-downs, and barter. (7-1-93)()

c. ~~ISTC~~ See Rule 099 of these rules. Occasional sales. (7-1-93)()

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- d. ~~ISTC~~ See Rule 091 of these rules. Sales to indians. (7-1-93)()
- e. ~~ISTC~~ See Rule 101 of these rules. Motor vehicles and trailers used in interstate commerce. (7-1-93)()
- f. ~~ISTC~~ See Rule 107 of these rules. Motor vehicles gifts, military personnel, and exemptions. (7-1-93)()
- g. ~~ISTC~~ See Rule 108 of these rules. Motor vehicles manufacturer's, rental company's and dealer's purchase or use of motor vehicles. (7-1-93)()

107. VEHICLES AND VESSELS -- GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of motor vehicles. (3-6-00)

02. Gifts of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

- a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)
- b. The recipient assumes no indebtedness. (7-1-93)
- c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)
- d. The donor and recipient complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit: (2-18-02)
 - i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or (2-18-02)
 - ii. The back of the title may be marked as a gift and signed by the donor. (2-18-02)

03. Nonresidents. (3-30-07)

a. A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered ~~or licensed~~ under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection (107.03.a.), a motor vehicle is considered to have been

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used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. This exemption applies only to nonresidents. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more motor vehicles is not a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. (3-30-07)(____)

b. For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. (3-30-07)

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects and privately owned motor vehicles, if he acquired them while he resided in another state and used them primarily outside Idaho. If a vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. New residents entering Idaho with a vehicle titled in a state that does not impose a general sales and use tax will be required to complete and sign a Three Month Exemption Claim Form ST-102 and submit it to the Idaho Transportation Department or county assessor when applying for a title transfer. (2-18-02)

a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)

b. Exclusion from the tax applies only to motor vehicles owned by an individual. A privately owned motor vehicle is one which is owned by, and titled to, a private individual or individuals. (3-6-00)

05. Military Personnel. Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in Subsection 107.03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)

06. Tax Paid to Another State. When a general retail sales tax has been properly imposed by another state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due. (3-30-07)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is

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sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A ~~Wyoming~~ resident of another state buys a vehicle ~~there~~ in that state for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his ~~Wyoming~~ title ~~from the other state~~ to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to ~~Wyoming~~ the other state was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the five hundred dollars (\$500) tax due Idaho. The assessor will collect two hundred dollars (\$200) tax. (4-11-06)()

c. Example: A ~~vehicle was~~ resident of another state purchased by a ~~Colorado resident~~ vehicle two (2) months before moving to Idaho. The applicant paid ~~three four~~ percent (34%) ~~Colorado~~ state sales tax, one and six tenths ~~of one~~ percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total ~~Colorado~~ general sales tax paid was ~~six~~ seven and two tenths percent (67.2%). Since the Idaho tax rate is ~~five percent (5%)~~ lower, no tax is due Idaho because the amount of tax paid to ~~Colorado~~ the other state exceeds the amount owed Idaho. (4-11-06)()

d. Example: A resident of Alaska purchases a vehicle immediately prior to moving to Idaho. The purchaser paid a three percent (3%) city sales tax in Alaska. When the purchaser moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due. (3-30-07)

e. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

f. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

g. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor or his

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representative and attached to the affidavit. (2-18-02)

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollar (\$10,000) purchase price of the vehicle. (4-11-06)

08. Sales to American Indians. An enrolled American Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and the name of the Reservation upon which the sale and delivery occurred. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (2-18-02)

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (2-18-02)

10. Vehicles and Vessels Purchased in Idaho by Nonresidents for Use Outside Idaho. (5-3-03)

a. Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), off-highway motorcycles, and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: (5-3-03)

i. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (5-3-03)

ii. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than sixty (60) days in any twelve-month period. (5-3-03)

b. To claim the exemption, the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST104-MV. (5-3-03)

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, or inflatable boats regardless of length when sold without a motor. (5-3-03)

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d. For purposes of Subsection 107.10 of this rule, an ATV means any recreational vehicle with three (3) or more tires, weighing under eight hundred fifty (850) pounds, forty-eight (48) inches or less in width, having a wheel base of sixty-one (61) inches or less, and traveling on low pressure tires of less than ten (10) psi. (3-20-04)

e. For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-20-04)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, or inflatable boats unless such canoe, kayak, or inflatable boat is sold together with attached motor. (5-3-03)

f. For the purposes of Subsection 107.10 of this rule a trailer must meet the definition of either “trailer” or “utility trailer” found in Sections 49-121 and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term “trailer” includes the specific types of trailers defined in Sections 49-121(6)(a) through 49-121(6)(h), Idaho Code. (____)

fg. To qualify for this exemption the purchaser must be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more motor vehicles it is not a nonresident. The purchase or use of a motor vehicle in Idaho by such an entity is taxable. (3-30-07)

11. Motor Vehicles and Trailers Used in Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The owner must complete and sign the Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104MV, and provide it to the seller, the Idaho Transportation Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (5-3-03)

12. Related Party Transfers and Sales. Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

(BREAK IN CONTINUITY OF SECTIONS)

109. AMUSEMENT DEVICES (RULE 109).

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01. Currency Operated Amusement Devices. “Amusement device” means all currency or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or noncurrency operated machines or games described in Subsection 109.03 of this rule. (6-30-95)

02. Requirement to Obtain Permit. The owner or operator of amusement devices is required to obtain a seller’s permit if he is making retail sales other than the use of currency or token operated amusement devices. If the owner or operator is not making such other retail sales, he need not obtain a seller’s permit, but must obtain an amusement device permit for each device in service. (6-30-95)

a. ~~From July 1, 1995 to June 30, 2004, owners or operators of amusement devices were required to pay a fee of thirty five dollars (\$35) per machine in service or use. The fee for permits purchased for the year beginning July 1, 2004, is forty two dollars (\$42). Beginning July 1, 2005, the fee for permits will be thirty five dollars (\$35). The fee will change by an amount proportional to any change in the sales tax rate.~~ Owners and operators of coin or currency operated amusement devices are required to pay a permit fee for every such device in operation. At a tax rate of 5% this fee is thirty-five dollars (\$35). Section 63-3623B(c), Idaho Code, states that the fee may be increased proportionately to any increase in the tax rate. The formula ~~to apply~~ to calculate the permit fee is seven hundred dollars (\$700) x tax rate. For example, at a tax rate of five percent (5%) ~~tax rate~~ the amount of the permit fee is ~~therefore~~ seven hundred dollars (\$700) x five percent (5%) = thirty-five dollars (\$35). If the tax rate is six percent (6%), the permit fee will be forty-two dollars (\$42). If any change in the tax rate becomes effective on July 1 of a given year, the charge for the permit fee will change proportionately on that date also. If a change in the tax rate occurs on a day other than July 1, the permit fee will be changed on the next July 1 following the change in the tax rate. (4-11-06)()

b. Upon receiving the appropriate payment, the Tax Commission will issue to the owner or operator of one or more amusement devices, a permit for each such device in service. A separate permit on each device in service is required. The permit shall be affixed near the currency slot of the machine in such a manner that it is easily visible. Permits are transferable from one person to another after written notice of the transfer is received and acknowledged by the Tax Commission. Permits may be transferred from a machine that is no longer in service to another machine owned or operated by the same person. An amusement device permit is not valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. (3-16-04)

c. Video amusement devices may have more than one (1) monitor and be designed to be operated independently by more than one (1) person. In such cases a separate permit is required for each monitor. (6-30-95)

d. Amusement device permits must be renewed annually. Annual permits are valid from July 1 through June 30. Permits must be renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require the appropriate fee for a full-year permit. (3-16-04)

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03. Noncoin Operated Amusement Machines or Games. Charges for the use of amusement machines or games which are not currency or token operated are subject to tax at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of noncurrency or nontoken operated amusement machines or games is required to obtain a seller's permit if he is charging for the use of such machines. (6-30-95)

04. Cross-Reference. See Rule 095 of these rules regarding purchases of Money-Operated Dispensing Equipment. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

117. REFUND CLAIMS (RULE 117).

01. In General. Application for refund of sales or use taxes paid in excess of those properly imposed by the Sales Tax Act, shall be in accordance with the provisions of this rule. (7-1-93)

02. Payment of Sales Tax by a Purchaser to a Vendor. When a purchaser has paid sales tax to a vendor, and later determines that the sales tax was paid in error, the purchaser shall request the refund from the vendor to whom the excess tax was paid. If the purchaser can provide evidence that the vendor has refused to refund the tax, he may then file a claim for refund directly with the Tax Commission. (7-1-93)

03. Payment of Sales or Use Tax Directly to the State. When a person holding a seller's permit or use tax account number has paid tax to the state, and later determines that the sales or use tax was paid in error, he may file a claim for refund directly with the Tax Commission. (7-1-93)

04. Bad Debts. Claims for refunds arising from bad debts must be filed with the Tax Commission in the manner prescribed by Rule 063 of these rules. (5-3-03)

05. Mathematical Errors. When the filer of sales or use tax returns determines that a mathematical error has been made on a previously filed return resulting in overpayment of the proper amount of sales or use taxes, he may file a claim for refund directly with the Tax Commission. (7-1-93)

06. Claim Form. Form TCR, Sales Tax Refund Claim, may be used to file for a refund from the Commission. Although this form is available for this purpose, it is not required. A refund claim, however, must be in writing. The claim must include the full name and address of the claimant and his seller's permit number or use tax account number if the claimant has such a number. The claim must state the amount of the refund include a detailed statement of the reason the claimant believes a refund is due, including a description of the tangible personal property, if any, to which the tax relates and the date on which the claimed excess taxes were paid. If the claimant is the retailer, the claim for refund must include a statement, under oath, that the amount

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of tax plus interest refunded to the retailer have been or will be refunded by the retailer to the purchaser. (4-6-05)()

07. Outstanding Liabilities. No claim for refund will be approved or issued if the claimant has outstanding liabilities for other taxes administered by the Tax Commission. (5-3-03)

08. Payment Under Protest. It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes. (7-1-93)

09. Statute of Limitations. A claim for refund will not be allowed if it is filed more than three (3) years from the time the payment of the tax was made. The time the payment was made is the date upon which the sales or use tax return relating to the payment was filed with the State Tax Commission. (5-3-03)

10. Taxes Paid in Response to a Notice of Deficiency Determination. A claim for refund may not be filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the State Tax Commission in conformance with a notice of deficiency determination must seek a refund by using the appeal procedures outlined in Rule 121 of these rules. (5-3-03)

11. Denial of a Refund Claim. All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or part of the claim should not be allowed, notice of denial of the claim shall be given to the claimant by return receipt requested delivery. The notice shall include a statement of the reasons for the denial. The notice of denial shall be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must file a petition for redetermination in the manner prescribed in Rule 121 of these rules. A petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served on the claimant. (5-3-03)

12. Interest on Refunds. See Rule 122 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

135. SNOWGROOMING AND SNOWMAKING EQUIPMENT (RULE 135).

01. Exemption for Snow Equipment. Section 63-3622Y, Idaho Code, exempts the sale, storage, use or other consumption of tangible personal property that will become a component of an aerial passenger tramway and snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area. This exemption also extends to sales and purchases of component parts used to build or repair snowgrooming and snowmaking equipment. ()

02. Consumable Supplies Not Exempt. This exemption only applies to sales and purchases of equipment that will become a component part of snowmaking or snowgrooming equipment. It does not apply to sales and purchases of fuel, fluids, or other consumable supplies.

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136. REBATES PAID TO CERTAIN REAL ESTATE DEVELOPERS (RULE 136).

01. Rebate of Sales Tax. Section 63-3641, Idaho Code, provides for a rebate of sales taxes to be paid to real estate developers who build a qualifying retail complex at a cost of four million dollars (\$4,000,000) or more and who expend more than eight million dollars (\$8,000,000) for the installation of a highway interchange or for freeway interchange improvements on an interstate highway. For the purposes of this rule, the term “qualifying shopping center” shall mean a qualifying retail complex as specified by Section 63-3641, Idaho Code. ()

02. Qualifying Shopping Center Location. Retailers that are located in a qualifying shopping center must apply for a separate sellers’ permit and file a separate sales tax return for that location. A retailer who ceases operation in a qualifying shopping center must notify the Tax Commission and cancel the sellers’ permit for that location. ()

03. Confidential Information. Information about an individual store’s sales or aggregate sales for stores located in a qualifying shopping center is confidential and may not be released to the public. ()

04. Developer Responsibilities. The developer of a qualifying shopping center must provide the names and taxpayer identification numbers of the stores located in the shopping center to the Tax Commission. The developer must also notify the Tax Commission whenever a new retailer begins operation or when a retailer ceases operations in a qualifying shopping center. ()

05. Certifying Expenditures Prior to Rebate Payment. No rebate will be paid unless the Idaho Department of Transportation or an appropriate political subdivision of the state of Idaho has certified as to the amounts actually expended and that the expenditures were made for the purpose of constructing a highway interchange or for freeway interchange improvements. ()

1357. -- 999. (RESERVED).

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IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 300 through 307.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest (208) 334-7530.

DATED this 1st day of November, 2007.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

***THE FOLLOWING NOTICE PUBLISHED WITH THE
TEMPORARY AND PROPOSED RULE***

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EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 63-105A, Idaho Code, and the repeal of Section 63-602FF, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 14, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 802: Change is needed to be consistent with legislative changes. The changes implement HB79 providing a definition and removing new construction within revenue allocation areas from the budget growth formula until the revenue allocation area is dissolved.

Rule 803: Change is needed to be consistent with legislative changes. The changes implement HB1 (8/2006) and HB197 providing directions for calculation of the maximum property tax funds for tort funds for school districts.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons: In compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section(s) 67-5226(2), the Governor has found that the fee or charge being imposed or increase is justified and necessary to avoid immediate danger and the fee is appropriate for the following reasons: N/A

FISCAL IMPACT: Not applicable, this rule does not result in any measurable fiscal impact beyond that resulting from the legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

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DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).

Sections 63-802, and 63-301A, Idaho Code. (3-30-07)

01. Definitions. (4-5-00)

a. “Change of Land Use Classification.” “Change of land use classification” shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current property roll. (3-30-07)

i. This increase in value due to change of land use classification shall be reported on the new construction roll in the year in which the new category appears on the current property roll unless the increase in value was previously included on the new construction roll. (3-30-07)

ii. The increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (3-30-07)

iii. When the land value, had the land remained in its previous use category, is less than the land value for a previous year in which value for the same property was included in the value reported on the new construction roll, the value calculated in Subparagraph 802.01.a.ii. of this Rule shall be reduced by the value included on any previous new construction roll. (3-30-07)

b. “Incremental Value as of December 31, 2006.” “Incremental value as of December 31, 2006” means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll in 2006. ()

~~bc.~~ “Nonresidential Structure.” “Nonresidential structure” shall mean any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes ~~pursuant to~~ in Rule ~~130~~ 511 of these rules. (5-3-03)()

02. **New Construction Roll Listing.** “Listing” shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, ~~including~~ but shall not include otherwise qualifying new construction, ~~within~~ the value of which will be included in the increment value of any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same

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order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. When a taxing district proves new construction described by Section 63-301A(3), Idaho Code, has never been included on a new construction roll, the county assessor must list that property on the immediate next new construction roll at the value proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit, and the separate listing must show the year or years of the new construction roll that would have been appropriate for this additional new construction. The taxing district has the burden of proving the new construction was omitted from any new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district shall ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year's new construction roll shall be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year. ~~(7-1-99)~~()

03. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

04. Partial New Construction Values. Except as provided in Subsection 802.05 of this rule, the net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Except as provided in Subsection 802.05 of this rule, Any increase in a nonresidential parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.05 of this rule, shall not be included on the new construction roll.

Example: Assume a partially completed, nonresidential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 2004. The improvement was occupied February 2, 2004. Assume the ten thousand dollars (\$10,000) value was on the 2004 new construction roll. Assume that in 2005 the improvement is assessed at ninety thousand dollars (\$90,000). Assume there has been no inflation. The value that can be reported on the 2005 new construction roll is calculated as follows:

2005 Value	\$90,000
2004 Value Already Reported on New Construction Roll	<\$10,000>
2005 New Construction Roll Value (this improvement)	\$80,000

~~(4-11-06)~~()

05. Change in ~~Exemption~~ Status.

~~(5-3-03)~~()

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the

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improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. (7-1-99)

b. ~~For any rural subdivision parcels of land changing use as a result of removal of the exemption under Section 63-602FF, Idaho Code, the increase in value resulting from the removal of this exemption shall not be listed on the new construction roll when the increase in value was already listed on any previous year's new construction roll.~~ Upon receipt by the State Tax Commission of a resolution recommending adoption of an ordinance for termination of a revenue allocation area under Section 50-2903(5), Idaho Code, any positive difference of the most current increment value minus the "incremental value as of December 31, 2006," shall be added to the appropriate year's new construction roll. When this information is received after the fourth Monday in July, this positive net increment value shall be added to the following year's new construction roll. (5-3-03)()

06. Value of Annexation to Exclude New Construction. When determining the maximum property tax funded budget that may be certified under Section 63-802, Idaho Code, the annexation value shall include all taxable value within the annexed area except the value of new construction, outside revenue allocation areas. ~~Except for new construction within a revenue allocation area, the value of new construction within the annexed area shall be excluded from the value of the annexed area but included on the new construction roll for the taxing district annexing the area where the property is located, thereby preventing double counting of new construction value within the annexed area.~~ (4-11-06)()

07. Notification of New Construction Roll and Annexation Values. On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and within annexed areas for each appropriate taxing district or unit to that taxing district or unit. (3-20-04)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803).

Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), and 63-3638(10), Idaho Code.

(4-6-05)()

01. Definitions. (4-5-00)

a. "Dollar Certification Form" (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. "Prior Year's Market Value for Assessment Purposes." Prior year's market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, ~~and for fire districts, pursuant to Section 31-1420(3), Idaho Code.~~ (4-5-00)()

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c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f); ~~or 63-802(1)(g), or 31-1420(3),~~ Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f); ~~or 63-802(1)(g), and 31-1420(3)~~ Idaho Code, then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the Board of County Commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. “Recovered/Recaptured Property Tax List.” Recovered/recaptured property tax list means the report sent by the county auditor to the appropriate taxing district(s)/unit(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed to each appropriate taxing district/unit as recovery of property tax under Section 63-602G(5), Idaho Code, and/or as recapture of property tax under Section 63-3029B(4), Idaho Code, during the twelve (12) month period ending June 30 each year. (4-6-05)

f. “Taxing District/Unit.” Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those noncountywide governmental entities without authority to levy property taxes but on whose behalf such taxes are levied or allocated by an authorized entity such as the county or city for such entities as county road and bridge funds or urban renewal agencies, respectively. (4-6-05)

g. “New Taxing District.” For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Syringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). ()

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02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located by submitting the completed L-2 Form prescribed by the State Tax Commission. (4-6-05)

03. Budget Certification Requested Documents. Using the completed L-2 Form, ~~Each Board of County Commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The Board of County Commissioners shall not submit other documents unless requested to do so~~ only submit documentation specifically requested by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. (4-6-05)()

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. “Department or Fund.” Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. “Total Approved Budget.” List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. “Cash Forward Balance.” List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. “Other Revenue not Shown in Column 5.” List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. “Property Tax Replacement.” Report the sum of only the following: (4-6-05)

i. The amount of money received annually under Section 63-3638(10), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code ~~(For school districts, the amount of money to be included is only the appropriate amount of such money to be subtracted, as provided in Subsection 803.06 of this rule, not all such money.);~~ (4-6-05)()

ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax list”; (4-6-05)

iii. The amount of money received as recapture of the property tax benefit under

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Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax list”; and
(4-6-05)

iv. The appropriate amount of money listed on the statement and distributed to the county and each appropriate city under Section 63-2603, Idaho Code, as county property tax relief and detention facility debt retirement. (4-6-05)

f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)

g. Other Information. Provide the following additional information. (4-5-00)

i. The name of the taxing district or unit; (3-20-04)

ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)

iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)

iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)

h. Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)

i. For all taxing districts, L-2 worksheet. (3-20-04)

ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)

iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (3-20-04)

iv. Voter approved fund tracker. (3-20-04)

v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)

vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the Board of County Commissioners and the Board of the Library District reporting the dedicated portion of that city’s property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)

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vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the Board of County Commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi., of this rule. (4-6-05)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement Pursuant to Section 63-3638, Idaho Code. Property tax replacement monies received pursuant to Section 63-3638, Idaho Code, must be reported on the L-2 Form. For all taxing districts ~~except school districts~~, these monies must be subtracted from the "balance to be levied". ~~For school districts, only "appropriate property tax replacement monies" are to be subtracted.~~ The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Sections 63-802 and 33-802, Idaho Code, shall be based on the sum of these property tax replacement monies and the amount actually levied, ~~or, for school districts, the sum of "appropriate property tax replacement monies" and the amount actually levied.~~ (4-6-05)()

~~a. "Appropriate property tax replacement monies" is determined only for school districts and means all property tax replacement monies received pursuant to Section 63-3638, Idaho Code, except an amount equal to four thousands (0.004) multiplied by the year 2000 value of property exempted in Section 63-602EE, Idaho Code. If the amount so determined is greater than the total amount of property tax replacement monies, no property tax replacement monies received pursuant to Section 63-3638, Idaho Code, shall be subtracted from the school district maintenance and operation's (M&O) budget.~~ (4-6-05)

~~ba. After receipt from the counties of the year 2000 tax charges on property exempted in Section 63-602EE, Idaho Code, but no later than July 23, 2001, the State Tax Commission shall notify each county clerk of the amount of property tax replacement money to be paid to each taxing district in that county. Beginning in 2002 and thereafter, The State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money to be paid to a taxing district or the "appropriate amount of property tax replacement money" to be paid to any school district changes from the amount paid in the preceding year. In 2002, By the first Monday of May, The State Tax Commission shall also notify each county clerk~~

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~~of the amount of the “appropriate property tax replacement monies” to be subtracted before computing the M&O levy for each school district~~ further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Section 63-3638(10), Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature. (5-3-03)()

eb. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received ~~and shall further notify each school district of the appropriate amount to be subtracted before the M&O levy is computed.~~ (5-3-03)()

ec. The subtraction required in Subsection 803.06 of this Rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code, ~~and from school district maintenance and operation funds made pursuant to Section 33-802, Idaho Code.~~ For school districts this subtraction must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (4-6-05)()

ed. Levy limits shall be tested against the amount actually levied. (3-15-02)

07. Special Provisions for Library Districts Consolidating with Any City’s Existing Library Operations or Services. For any library district consolidating with any city’s existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district’s property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district’s property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

08. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city’s total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city’s property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the “Calculated Levy Rate” column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the “Column Total” entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

10. Special Provisions for School Districts’ Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a

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school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this levy, sum the school district's tort fund for the prior year and the agricultural equipment replacement revenue subtracted from that tort fund, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times the current year's new construction roll value for the school district.

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11. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district shall not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, shall be the amount of property tax revenue approved for the interim abatement district.

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12. Cross Reference for School Districts with Tuition Funds. For any school district certifying a tuition fund levy in 2006 or any year thereafter, see Section 33-1408, Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, for clarification that the amount of property tax revenue for a tuition fund is not subject to the limitations of Section 63-802, Idaho Code.

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HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - IDAHO PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0702

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 308 through 350.

Rule 205 and Rule 210 were both amended in the proposed rule. The Commission determined that Rules 205 and 210 were unnecessary and premature. As a result, Rules 205 and 210 are not being amended and will remain as currently codified. The codified text is not being reprinted with this notice.

Rule 217 was also amended in the proposed rule. Based on public comment, the Commission determined that the amendments made to Rule 217 were insufficient. Therefore, Rule 217 is not being amended and will remain as currently codified. The codified text is not being reprinted with this notice.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Alan Dornfest (208) 334-7530.

DATED this 1st day of November, 2007.

Alan Dornfest, Tax Policy Specialist
State Tax Commission

P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-105A.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 006 is being amended to update references to appropriate and current editions of guides used to determine the values of recreational and certain other vehicles. Amendments also update the reference to the appropriate edition of the register used in the valuation of railcars.

Rule 131 is being amended to provide follow-up procedures when categories in compliance in March final ratio study are discovered to be out of compliance following completion of county board of equalization action.

Rules 205 and 210 are being repealed and replaced with a new Rule 205 to adopt criteria that can be applied more consistently to differentiate real and personal property and to provide that net profits of mines are no longer considered personal property.

Rule 217 is being amended to provide a cross reference and an example of an acceptable procedure for the calculation of the contributory value of income tax credits for Section 42 housing, being consistent with the directions of the Idaho Supreme Court in the case of Brandon Bay Limited Partnership v. Payette County.

Rule 314 is being amended to provide cross references, provide for timely availability of income/expense data on income producing property for completion of appraisals for the property roll, and to identify data to include for valuation of Section 42 projects.

Rule 315 is needed to be consistent with legislative changes resulting from HB 1 (8/2006). Proposed amendments restrict the Commission's responsibility to provide school district adjusted values to apply to the Boise School District only.

Rule 404 is being amended to provide cross references, clarify what property at thermal energy electricity generation facilities is new construction, move apportionment directions

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to Rule 405, and correct pipeline mileage reporting directions.

Rule 405 is being amended to provide cross references and directions relating to apportionment of property at thermal energy electricity generation facilities.

Rule 415 is being amended to change the date for county treasurers to submit property tax rate information that is used to calculate the tax rates applicable to railcar fleets under \$500,000 (change is from November 1 to November 15).

Rule 509 is being amended to provide a cross reference to rules and statutes that provide procedures for correction of taxable values resulting from errors after county commissioners have taken action under Section 63-809, I.C. and to limit school district abstracts to the Boise School District to be consistent with HB1 (8/2006).

Rule 510 is being amended to provide directions for assigning categories for homesites and when property has multiple uses.

Rule 511 is being amended to provide directions for assigning categories for improvement categories with multiple uses.

Rule 603 is being proposed to implement the requirements of HB 69 to provide directions for calculating the value of the portion of property not permitted the religious property exemption. This occurs whenever that portion equals more than 3% of the value of the entire property. Methods are to be comparable with those used to value the taxable portion of property otherwise exempt under 63-602C, Idaho Code.

Rule 609 is being amended to correct references and add examples for clarification of homeowner's exemption for partial ownership.

Rule 610 is being amended to correct references to Rule 609.

Rule 645 is being amended to provide directions for assigning categories for homesites.

Rule 700 is being amended to add cross reference and example for clarification of calculating benefits for partial ownership. (Reference relates to public benefit in SB1157.)

Rule 701 is a new rule being promulgated to provide procedures for county officials and claimants to provide documentation necessary to verify or to facilitate subsequent electronic verification that claimants are lawfully present in the United States. Requirements are to comply with the provisions of SB 1157.

Rule 717 is being amendment to comply with the requirements of SB 1157 and require the claimant to present information enabling the state tax commission to prove that the claimant is lawfully present in the United States.

Rule 804 is being amended to correct cross references and implement HB1 (8/2006), removing allocation of part of taxes levied on urban renewal district increments to school districts.

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Rule 805 is being amended to implement HB1 (8/2006), restricting the budget increase penalty for school districts so that it applies only to their tort funds.

Rule 809 is being proposed to provide a timeline for state tax commission review and approval, and procedures for correction of taxable values resulting from errors when county commissioners take action under Section 63-809, I.C.

Rule 811 is a new rule proposed to clarify the responsibilities of county auditors to compute the total tax charge by taxing district and the responsibilities of county treasurers to compute individual property tax due on each parcel of property.

Rule 966 is being amended to correct a cross reference and wording to be consistent with other rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. INCORPORATION BY REFERENCE (RULE 006).

Unless provided otherwise, any reference in these rules to any document identified in Rule 006 of these rules shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-3-03)

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01. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available at main office of the State Tax Commission as listed in Rule 005 of these rules. (5-3-03)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. “Standard on Ratio Studies” published in 1999 by the International Association of Assessing Officers. (5-3-03)

b. “Recreation Vehicle Guide of the National Automobile Dealers Association” published in 2006~~7~~ for the September through December period by the National Appraisal Guides Incorporated. (~~3-30-07~~)()

c. “Van/Truck Conversion and Limousine Appraisal Guide of the National Automobile Dealers Association” published in 2006~~7~~ for the September through December period by the National Appraisal Guides Incorporated. (~~3-30-07~~)()

d. “Official Railway Equipment Register” published for the last three (3) quarters in 2006~~7~~ and the first quarter in 2007~~8~~ by R. E. R. Publishing Corporation, Agent as a publication of Commonwealth Business Media, Inc. (~~3-30-07~~)()

e. “Forest Habitat Types of Northern Idaho: A Second Approximation” published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. (4-6-05)

f. “Forest Habitat Types of Central Idaho” published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. (5-3-03)

g. “Yield of Even-Aged Stands of Ponderosa Pine” published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. (5-3-03)

h. “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. (5-3-03)

i. “Manual of Instructions for the Survey of the Public Lands of the United States” published by the Government Printing Office for the Bureau of Land Management in 1973, Technical Bulletin No. 6. (5-3-03)

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(BREAK IN CONTINUITY OF SECTIONS)

131. USE OF RATIO STUDY TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).

Section 63-109, Idaho Code.

(3-30-07)

01. Equalization Ratio Study. Each year the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories established in Rule 130 of these rules. The ratio study shall be conducted in accordance with the "Standard on Ratio Studies" referenced in Rule 006 of these rules. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be the median ~~for equalization ratio studies conducted beginning October 1, 2006.~~ (3-30-07)(____)

02. Tested For Equalization. Beginning with the 2007 ratio study to be complete prior to the first Monday in April, 2008, categories to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. (3-30-07)

03. Follow-Up Ratio Study. ~~When the annual ratio study provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule, the State Tax Commission shall conduct a follow-up ratio study. The~~ When indicated, based on criteria in Paragraph 131.03.a. and 131.03.b. of this rule, a follow-up ratio study shall be conducted to test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study shall be indicated whenever: (____)

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (____)

b. The State Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a primary category found in compliance with equalization standards following the annual ratio study would be found out of compliance with these standards for the current year's assessments. (____)

04. Notice of Follow-Up Ratio Study. The State Tax Commission shall notify the

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county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.03.b. of this rule, the notice shall be sent to the county board of equalization and county assessor and shall describe the assessment changes that resulted in the need for the follow-up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. (3-30-07)()

045. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall be one (1) source of information upon which the State Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary category, described in Subsections 130.02 through 130.06 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.079 of this rule, that the appropriate measure of level of any primary category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that primary category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in any primary category or subcategory included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category except as provided in Subsection 131.056 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. (3-30-07)()

056. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment shall be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment shall also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

067. Use of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.03 of this rule does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the State Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-07)

078. Submission of Additional Information. Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn

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from the information.

(4-5-95)

089. Reasonable Statistical Certainty. For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, “reasonable statistical certainty” that any primary category is not equalized shall mean that the appropriate measure of level determined by the ratio study for the primary category must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination shall occur if: (3-30-07)

a. The appropriate measure of level for the primary category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (3-30-07)

b. The appropriate measure of level for the primary category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the primary category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study ~~conducted~~ completed prior to ~~January~~ August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (~~3-30-07~~)()

0910. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (RULE 314).

Sections 63-314 and 63-316, Idaho Code.

(3-30-01)

01. Definitions.

(7-1-99)

a. Continuing Program of Valuation. “Continuing program of valuation” means the program by which each assessor completes the assessment of all taxable properties each year.

(7-1-99)

b. Field Inspection. The “field inspection” shall include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (7-1-99)

c. Index. “Index” refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics.

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(7-1-99)

d. Prediction of Market Value. As used in Section 63-314, Idaho Code, “prediction of market value” means an estimate of market value. (7-1-99)

e. Category to be Assessed at Current Market Value. The level of assessment of each category will be considered to be current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (3-30-01)

02. Plan for Continuing Program of Valuation. The plan for continuing program of valuation shall include: (7-1-99)

a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis that provides adequate funding for labor costs, capital and supply costs, travel and education costs and the method of program evaluation. (3-30-01)

b. Market Data Bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. To mail assessment notices by the first Monday in June as required by Section 63-308, Idaho Code, assessors should include income and expense data submitted by property owners by the first Monday in April. Income and expense data for low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code includes actual rents, the monetary benefit of income tax credits, and expenses. ~~(7-1-99)~~()

c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (7-1-99)

d. Property Record. A property record for each parcel, complete with the property characteristics necessary for an estimate of the current market value. (7-1-99)

03. Date Plan Is Submitted. The plan must be submitted to the State Tax Commission on or before the first Monday of February in 1997, and every fifth year thereafter. (7-1-99)

04. Request for Extension. As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (3-30-01)

a. Amended Plan. Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory shall constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. Parcels appraised during the extension will be considered appraised during both the current and subsequent five (5) year plan valuation program periods, maintaining the same five (5) year cycle for all counties. (3-30-01)

b. Approval of the Extension and Amended Plan. A county shall be notified of the State Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension

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when accompanied by an amended plan. (3-30-01)

c. Approval of the Amended Plan. The State Tax Commission's approval of any extension shall specify timing and nature of progress reports. (3-30-01)

d. Voiding of the Extension. The State Tax Commission can void an extension unilaterally. (3-30-01)

05. Testing for Current Market Value. Assessed values shall be tested annually by the State Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether the level of assessment reflects “current market value.” (3-30-01)

06. Cross Reference. For clarification on tax credits when valuing low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code, see the case of *Brandon Bay, Ltd. Partnership v. Payette County*, 142 Idaho 681, 132 P.3d 438 (2006). For an example of the methodology to use to include the value of the income tax credits when valuing low income housing properties receiving tax credits under Section 42 of the Internal Revenue Code, see Paragraph 217.03.c. of these rules. ()

315. USE OF RATIO STUDY TO EQUALIZE - BOISE SCHOOL DISTRICTS (RULE 315).
Section 63-315, Idaho Code. (3-30-07)

01. Procedures for Boise School District Ratio Studies. The ratio study conducted by the State Tax Commission to comply with the requirements of Section 63-315, Idaho Code, shall be conducted in accordance with the “Standard on Ratio Studies” referenced in Rule 006 of these rules. The following specific procedures will be used. (~~4-11-06~~)()

a. Information on property sales, which meet the requirements of arm’s length and market value sales, will be obtained and assembled into samples representing various primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, within designations defined in Subsection 315.02 of this rule in ~~each~~ the Boise ~~School~~ District. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within ~~each~~ the Boise ~~School~~ District between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. (~~3-30-07~~)()

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation described in Subsection 315.02 of this rule in ~~each~~ the Boise ~~School~~ District and appropriate measures of central tendency, uniformity, reliability, and normality

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computed. (3-30-07)()

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the Boise School District by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used shall be the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by nonrepresentative ratios. In this case the median may be substituted: (3-30-01)()

f. Within ~~each~~ the Boise School District, adjusted market value or taxable value for each primary and each applicable secondary category of real, personal and operating property will be summed to produce the total adjusted market value for the Boise School District. The Boise School District taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in ~~each~~ the Boise School District. Statewide totals are to be calculated by compiling county totals. (3-30-07)()

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for ~~any~~ the Boise School District. (7-1-98)()

h. “Reasonable statistical certainty,” that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one hundred five percent (105%), there is not “reasonable statistical certainty” that the property designation is not at market value for assessment purposes. (3-30-01)

i. Primary and secondary categories subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Secondary Categories	Primary Categories	Ratio Study Designations
12, 15, 18, or 20	Vacant Residential Land	Residential
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property	Residential
47, 49, or 65	Manufactured Home on Leased Land	Residential
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land	Commercial
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property	Commercial

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(3-30-07)

j. For all secondary categories, described in Rule 510, 511, or 512 of these rules but not contained in the list in Paragraph 315.01.i. of this rule, adjusted market value will equal taxable value. (3-30-07)

k. “Appraisal” or “appraised value” refers to any State Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use of Property Designations. In computing the ratio for ~~each~~ the Boise ~~§~~School ~~¶~~District, the State Tax Commission will designate property as residential or commercial and shall assign appropriate primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, to these designations as shown in Paragraph 315.01.i. of this rule. For ~~each~~ the Boise ~~§~~School ~~¶~~District, adjusted market value shall be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each primary and secondary category assigned to a designation. Except as provided in Subsection 315.06 of this rule, for the taxable value in any secondary category to be included in said sum, at least one (1) observation (sale or appraisal) from that secondary category must be present in the ratio study. If the ratio for any given designation in ~~a~~ the Boise ~~§~~School ~~¶~~District indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the Boise ~~§~~School ~~¶~~District abstract(s) required pursuant to Subsection 315.04 of this rule for each of the secondary categories included in that designation shall be the adjusted market value for said designation for said school district.

(3-30-07)(____)

03. Assessor to Identify Boise School Districts. Each county assessor will ~~provide to~~ identify for the State Tax Commission ~~the school district in~~ which ~~each~~ sales submitted for the ratio study ~~is~~ are located within the Boise School District. (7-1-98)(____)

04. Abstracts of Value ~~by~~ for the Boise School District. ~~Within each county, e~~Each applicable county auditor shall provide to the State Tax Commission abstracts of the taxable value of all property within the portion of ~~each~~ the Boise ~~§~~School ~~¶~~District in that county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value. (3-30-07)(____)

05. Urban Renewal Increment and Exemption to be Subtracted. The taxable value of each primary or secondary category within ~~each~~ the Boise ~~§~~School ~~¶~~District shall not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and shall not include the value of any exemption pursuant to Sections 63-602G, 63-602K, 63-602P, 63-602X, 63-602AA, 63-602BB, 63-602CC, 63-602DD, 63-602GG, 63-602HH, 63-602II, 63-606A, or 63-3029B, Idaho Code. (3-30-07)(____)

06. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where

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there is an adjustment to be made to the assessed values in the residential designation, such adjustment shall be applied to any assessed value in secondary category 10, provided there is at least one (1) observation (sale) of property identified in either secondary category 12 or 15. Such adjustment shall also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37.

(3-30-07)

07. Certification of Values. The values required to be certified to the county clerk by the first Monday in April each year under Section 63-315, Idaho Code, shall be published on the State Tax Commission's web site or provided in an alternate format on request by the first Monday in April each year to satisfy this required certification.

(3-30-07)

08. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these Rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules.

(3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

404. OPERATOR'S STATEMENT -- CONTENTS (RULE 404).

Sections 63-401 and 63-404, Idaho Code.

(5-3-03)

01. Operator's Statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method.

(7-1-99)

02. Tax Code Area Maps. By March 1 of each year, the State Tax Commission shall furnish to all entities having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. In case the State Tax Commission receives corrections to any tax code area boundaries, these changes must be furnished by March 15. Every day that the tax code area map deadline is extended beyond March 1 allows for an automatic operator's statement extension equal to the delay. The reporting entity shall review the list of changes to identify any tax code areas, within which any of the entity's operating property is located. The reporting entity shall report, under Subsection 404.01 of this rule based on these identified tax code areas. The State Tax Commission shall provide the tax code areas maps to the reporting entity as provided for in Rule 225 of these rules.

(5-3-03)

03. Reporting of Mileage. The following procedures apply for reporting mileage.

(7-1-99)

a. Railroad Track Mileage. The railroad track mileage shall be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported as Secondary Track Miles.

(5-3-03)

b. Electric Power Line Mileage. The electric power companies shall report electric

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power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includible in transmission lines. Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines shall be reported by single linear wire mile.

(5-3-03)

c. Telephone Wire Mileage. All telephone wire mileage shall be reported on a single linear wire mile basis, and include any ground wires.

(5-3-03)

d. Natural Gas and Water Distribution Pipeline Mileage. All natural gas and water distribution companies shall report pipeline miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles.

(5-3-03)

e. Transmission Pipeline Mileage. ~~All Transmission pipeline mileage is reported in actual pipe sizes, without adjustment, because the pipe is normally uniform in size over long distances~~ companies shall report pipeline miles on a one-inch (1") comparison basis.

(5-3-03)(____)

04. Situs Property. Situs property includes microwave stations, and radio relay towers, ~~and thermal electric generation~~ This property also includes facilities, used for and in conjunction with thermal generation of electricity, constructed after January 1, 2004, and located in or within five (5) miles of an incorporated city. ~~This property is not apportioned on the basis of mileage.~~ The investment in this property shall be reported in the tax code area(s), within which it is located.

(4-6-05)(____)

05. Record of Property Ownership. The following procedures apply for maintaining records of operating property ownership.

(7-1-99)

a. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility shall be maintained by the State Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record shall be maintained on a form identified as STC Form R. The State Tax Commission shall send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office.

(7-1-99)

b. Identification of Operating Property and Nonoperating Property. On the STC Form R, the State Tax Commission shall identify which property is operating property and which property is nonoperating property.

(5-3-03)

c. Filing of Property Ownership by Railroad Companies. Each railroad company shall file the original railroad right-of-way maps with the State Tax Commission. Each railroad shall file an STC Form R, only, for property that is acquired, leased, or transferred between

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operating and nonoperating status, or sold during the prior year. (7-1-99)

06. Filing Date for Operator's Statement. By April 30 each year, each railroad, private railcar fleet, and or public utility operating in Idaho shall file information pertinent to the entity's ownership and operation with the State Tax Commission. This information must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the State Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30 may be granted as set out in Subsection 404.02 of this rule. (4-6-05)

07. Cross Reference. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. For valuation, allocation, and apportionment information, see Section 63-405, Idaho Code, and Rule 405 of these rules. ()

405. ASSESSMENT OF OPERATING PROPERTY (RULE 405). Section 63-405, Idaho Code. ()

01. The Unit Method. The unit method of valuation is preferred for valuing a railroad or public utility when the individual assets function collectively, are operated under one ownership and one management, are interdependent, and the property would be expected to trade in the marketplace as a unit. Under the unit method, the value of the tangible and intangible property is equal to the value of the going concern. The market value of the unit shall be referred to as the system value. For interstate property, allocation factors shall be used to determine what part of the system value is in Idaho. (7-1-99)

02. Identifying the Unit to be Appraised. The unit includes all property used or useful to the operation of the system, property owned, used or leased by the business and the leased fee and leasehold interests. Assess ~~All~~ title and interest in unit property shall be assessed to the owner, lessee or operating company. ~~See Rule 615 of these rules for treatment of intangibles.~~ (7-1-99)()

03. Appraisal Approaches. The three (3) approaches to value may be considered for all property. (7-1-99)

04. Appraisal Procedures. Market value shall be determined through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organizations. For operating property, the direct capitalization techniques or derivatives thereof shall not be used in estimating value. (7-1-99)

05. The Cost Approach. For operating property, the appraiser may consider replacement, reproduction, original or historical cost. (7-1-99)

a. Contributions in aid of construction. Contributions in aid of construction are valued at zero in the cost approach. (7-1-99)

b. Construction work in progress. Construction work in progress may be considered in the cost approach. (7-1-99)

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c. Obsolescence. The appraiser shall attempt to measure obsolescence, if any exists. If obsolescence is found to exist, it may be considered in the cost approach. (7-1-99)

06. The Income Approach. For operating property, the income approach is based on the premise that value can be represented by the present worth of future benefits derived from the ownership, use or operation of the unit. The appraiser shall consider yield capitalization in processing the income approach. (7-1-99)

07. The Market Approach. In the market approach for operating property, the appraiser shall consider the sales comparison approach or the stock and debt approach. (7-1-99)

08. Reconciliation. Reconciliation, also called correlation, is an opinion regarding the weight that should be placed on each approach. The appropriate weight to be given each indicator is based on the appraiser's opinion of the inherent strengths and weaknesses of each approach and the data utilized. The appraisal report shall disclose the weight given to the indicators. (7-1-99)

09. Allocation. ~~Factors should not~~ Use readily available data from existing records to calculate the factors that are multiplied by the correlated system value to allocate that value to Idaho. ~~Factors themselves should not be an allocation.~~ (7-1-99)()

10. Situs Property Apportionment. For situs property, as described in Subsection 404.04 of these rules, apportionment is based on physical location meaning the taxable value shall not be apportioned based on mileage but only to the tax code area(s) within which said property is situs or physically located. ()

11. Cross Reference. For reporting information, see Section 63-404, Idaho Code, and Rule 404 of these rules. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

415. APPORTIONMENT OF RAILCAR FLEET'S ASSESSED VALUES WITHIN THE STATE (RULE 415).

Section 63-411, Idaho Code. ()

01. Private Railcar Fleet Apportionment. Railroad track miles shall be used for the apportionment of each private railcar fleet's assessed value when the value within Idaho equals five hundred thousand dollars (\$500,000) or more. The Idaho value of each private railcar fleet shall be multiplied by a ratio of this private railcar fleet's mileage for each railroad to this private railcar fleet's total mileage in Idaho and divided by the in service main track mileage of that particular railroad, to obtain a rate per mile. This rate per mile is multiplied by the in service main track mileage in each county and tax code area to calculate the apportioned value. For the purpose of apportioning value by miles traveled, main track includes branch lines, as well as main lines, but does not include industrial spurs, sidings or passing tracks. (7-1-99)

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02. Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value. For private railcar fleets having an assessed value of less than five hundred thousand dollars (\$500,000), the average tax rate is computed each year by dividing the current taxes for all private railcar fleets with assessed value of five hundred thousand dollars (\$500,000) or more by the current Idaho value of all such fleets. By November 15 of each year, each county treasurer must provide the State Tax Commission with the amount of taxes due from all private railcar fleets in the county. ~~(7-1-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

509. CITY, COUNTY, AND SCHOOL DISTRICT ABSTRACTS OF VALUE AND IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES (RULE 509).

Sections 63-105A and 63-509, Idaho Code. (3-30-07)

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive. (3-30-07)

b. Primary Category. Primary category means the categories established and described by Subsections 130.02 through 130.06 of these rules and used by the State Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

c. Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the State Tax Commission under Section 63-509, Idaho Code, and this Rule. (3-30-07)

02. Appropriate County and Boise School District Abstracts to Balance. The taxable value of property in each secondary category as shown on the abstracts prepared and submitted under Section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each secondary category as shown on the Boise ~~§~~School ~~#~~District abstracts, required under Rule 315 of these rules, for the portion of ~~each~~ the Boise ~~§~~School ~~#~~District located within ~~each~~ given Ada ~~e~~County and Boise County. ~~(3-30-07)~~(____)

03. Indicate Increment and Exemption Values. In addition to the value of exemptions required under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections, 63-602GG, 63-602HH, 63-602II, 63-606A, and 63-3029B, Idaho Code, shall be indicated and subtracted from the taxable value shown for each secondary category of property on each city, county and school district abstract. (3-30-07)

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04. Submittal of Corrections to Erroneous Abstracts or Related Documents.
When completing the procedures set forth in Section 63-810, Idaho Code, boards of county commissioners should submit the corrections to the taxable values submitted on the abstracts or related documents under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the corrected levies under Section 63-810, Idaho Code. ()

045. Cross Reference. See Rule 115 of these rules for requirements to submit city abstracts. For the descriptions of the primary categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810, Idaho Code, and Rule 809 of these rules. (~~3-30-07~~)()

510. SECONDARY CATEGORIES FOR LAND - LISTING AND REPORTING (RULE 510).

Section 63-509, Idaho Code. County assessors will use the secondary categories described in the following subsections, indicated by numbers, to list land values on the valuation assessment notices under Sections 63-301 and 63-308, Idaho Code. County assessors will use these secondary categories described in the following subsections, indicated by numbers, and the secondary categories described in the following paragraphs, indicated by letters, to report land values to the State Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary land categories to parcels of property put to multiple uses. (~~3-30-07~~)()

01. Secondary Category 1 - Irrigated Agricultural Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be capable of and normally producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

02. Secondary Category 2 - Irrigated Grazing Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be used for grazing and not normally capable of producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

03. Secondary Category 3 - Non-Irrigated Agricultural Land. Land and only such

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land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This non-irrigated land must be capable of and normally producing harvestable crops without man-made irrigation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

04. Secondary Category 4 - Meadow Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This meadow land must be capable of lush production of grass and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

05. Secondary Category 5 - Dry Grazing Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This land must be capable of supporting grasses and not normally capable of supporting crops on regular rotation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

06. Secondary Category 6 - Productivity Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries of an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code. (3-30-07)

07. Secondary Category 7 - Bare Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city. (3-30-07)

08. Secondary Category 8 - Speculative Homesite. No value shall be reported in this category on any abstract submitted to the State Tax Commission after the property roll, subsequent property roll, and missed property roll abstracts have been submitted for calendar year 2005. (3-30-07)

09. Secondary Category 9 - Patented Mineral Land. All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an

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incorporated city. See Section 63-2801, Idaho Code.

(3-30-07)

10. Secondary Category 10 - Homesite Land. Rural ~~non-subdivided~~ ~~land~~ being utilized for homesites with secondary categories 1 through 9. Note: This land is always land with improvements located on it since land with no improvements should be in one (1) or more of categories 1 through 9. ~~(3-30-07)()~~

11. Secondary Category 11 - Recreational Land. Rural land used in conjunction with recreation but not individual homesites. (3-30-07)

a. Secondary Category 11 - Vacant Recreational Land. Vacant rural land used for recreational purposes but not individual homesites or in a properly recorded subdivision. (3-30-07)

b. Secondary Category 11 - Improved Recreational Land. Rural land with improvements, including exempt improvements, used for recreational purposes on that land but not individual homesites or in a properly recorded subdivision. (3-30-07)

12. Secondary Category 12 - Rural Residential Tracts. Rural residential land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 12 - Vacant Rural Residential Tracts. Vacant rural land used for residential purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 12 - Improved Rural Residential Tracts. Rural land with improvements, including exempt improvements, used for residential purposes on that land but not in a properly recorded subdivision. (3-30-07)

13. Secondary Category 13 - Rural Commercial Tracts. Rural commercial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 13 - Vacant Rural Commercial Tracts. Vacant rural land used for commercial purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 13 - Improved Rural Commercial Tracts. Rural land with improvements, including exempt improvements, used for commercial purposes on that land but not in a properly recorded subdivision. (3-30-07)

14. Secondary Category 14 - Rural Industrial Tracts. Rural industrial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 14 - Vacant Rural Industrial Tracts. Vacant rural land used for industrial purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 14 - Improved Rural Industrial Tracts. Rural land with improvements, including exempt improvements, used for industrial purposes on that land but not in a properly recorded subdivision. (3-30-07)

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15. Secondary Category 15 - Rural Residential Subdivisions. Rural residential land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 15 - Vacant Rural Residential Subdivisions. Vacant rural land used for residential purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 15 - Improved Rural Residential Subdivisions. Rural land with improvements, including exempt improvements, used for residential purposes on that land and in a properly recorded subdivision. Also use this category for rural homesites within subdivisions when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. (~~3-30-07~~)()

16. Secondary Category 16 - Rural Commercial Subdivisions. Rural commercial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 16 - Vacant Rural Commercial Subdivisions. Vacant rural land used for commercial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 16 - Improved Rural Commercial Subdivisions. Rural land with improvements, including exempt improvements, used for commercial purposes on that land and in a properly recorded subdivision. (3-30-07)

17. Secondary Category 17 - Rural Industrial Subdivisions. Rural industrial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 17 - Vacant Rural Industrial Subdivisions. Vacant rural land used for industrial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 17 - Improved Rural Industrial Subdivisions. Rural land with improvements, including exempt improvements, used for industrial purposes on that land and in a properly recorded subdivision. (3-30-07)

18. Secondary Category 18 - Other Land. Land not compatible with other secondary categories. (3-30-07)

a. Secondary Category 18 - Vacant Other Land. Vacant land not compatible with other secondary categories. (3-30-07)

b. Secondary Category 18 - Improved Other Land. Land with improvements, including exempt improvements, on that land but not compatible with other secondary categories. (3-30-07)

19. Secondary Category 19 - Waste. Public Rights-of-Way includes roads, ditches, and canals. Use this secondary category to account for total acres of land ownership. Only list acres, not value, in this secondary category on the abstract. (3-30-07)

20. Secondary Category 20 - Residential Lots or Acreages. Land used for

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residential purposes and inside city limits. (3-30-07)

a. Secondary Category 20 - Vacant Residential Lots Or Acreages. Vacant land used for residential purposes and inside city limits. (3-30-07)

b. Secondary Category 20 - Improved Residential Lots Or Acreages. Land with improvements, including exempt improvements, used for residential purposes on that land and inside city limits. Also use this category for urban homesites when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. ~~(3-30-07)~~()

21. Secondary Category 21 - Commercial Lots or Acreages. Land used for commercial purposes and inside city limits. (3-30-07)

a. Secondary Category 21 - Vacant Commercial Lots Or Acreages. Vacant land used for commercial purposes and inside city limits. (3-30-07)

b. Secondary Category 21 - Improved Commercial Lots Or Acreages. Land with improvements, including exempt improvements, used for commercial purposes on that land and inside city limits. (3-30-07)

22. Secondary Category 22 - Industrial Lots or Acreages. Land used for industrial purposes and inside city limits. (3-30-07)

a. Secondary Category 22 - Vacant Industrial Lots Or Acreages. Vacant land used for industrial purposes and inside city limits. (3-30-07)

b. Secondary Category 22 - Improved Industrial Lots Or Acreages. Land with improvements, including exempt improvements, used for industrial purposes on that land and inside city limits. (3-30-07)

23. Secondary Category 25 - Common Area Vacant Land. Common area vacant land not included in individual property assessments. (3-30-07)

24. Secondary Category 45 - Utility System Vacant Land. Vacant land used for locally assessed utility systems not under the jurisdiction of the State Tax Commission for appraisal. (3-30-07)

25. Secondary Category 57 - Equities In Vacant Land Purchased From the State. For identification purposes under Section 63-211, Idaho Code, vacant land purchased from the state under contract. (3-30-07)

26. Secondary Category 81 - Exempt Land. Category 81 is for county use to keep an inventory, including acreage, of exempt land. (3-30-07)

27. Cross Reference. For descriptions of secondary categories used to list values for improvements, see Rule 511 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the

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assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules.
(3-30-07)

511. SECONDARY CATEGORIES FOR IMPROVEMENTS - LISTING AND REPORTING (RULE 511).

Section 63-509, Idaho Code. County assessors will use the following secondary categories to list improved property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and to report improved property values to the State Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary improvement categories to parcels of property put to multiple uses.
(3-30-07)()

01. Secondary Category 25 - Common Area Land and Improvements. Common area land and improvements on that land not included in individual property assessments.
(3-30-07)

02. Secondary Category 26 - Residential Condominiums. Land and improvements included in individual assessments of condominiums or townhouses and used for residential purposes.
(3-30-07)

03. Secondary Category 27 - Commercial or Industrial Condominiums. Land and improvements included in individual assessments of condominiums and used for commercial or industrial purposes.
(3-30-07)

04. Secondary Category 30 - Improvements. Improvements, other than residential, located on secondary category 20.
(3-30-07)

05. Secondary Category 31 - Improvements. Improvements used for residential purposes and located on secondary category 10.
(3-30-07)

06. Secondary Category 32 - Improvements. Improvements, other than residential, located on secondary categories 1 through 12 and 15.
(3-30-07)

07. Secondary Category 33 - Improvements. Improvements used in conjunction with recreation but not associated with homesites and located on secondary category 11.
(3-30-07)

08. Secondary Category 34 - Improvements. Improvements used for residential purposes and located on secondary category 12.
(3-30-07)

09. Secondary Category 35 - Improvements. Improvements used for commercial purposes and located on secondary category 13.
(3-30-07)

10. Secondary Category 36 - Improvements. Improvements used for industrial purposes and located on secondary category 14.
(3-30-07)

11. Secondary Category 37 - Improvements. Improvements used for residential purposes and located on secondary category 15.
(3-30-07)

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12. Secondary Category 38 - Improvements. Improvements used for commercial purposes and located on secondary category 16. (3-30-07)

13. Secondary Category 39 - Improvements. Improvements used for industrial purposes and located on secondary category 17. (3-30-07)

14. Secondary Category 40 - Improvements. Improvements located on secondary category 18. (3-30-07)

15. Secondary Category 41 - Improvements. Improvements used for residential purposes and located on secondary category 20. (3-30-07)

16. Secondary Category 42 - Improvements. Improvements used for commercial purposes and located on secondary category 21. (3-30-07)

17. Secondary Category 43 - Improvements. Improvements used for industrial purposes and located on secondary category 22. (3-30-07)

18. Secondary Category 44 - Improvements. Taxable improvements located on otherwise exempt property under the same ownership. No later than January 1, 2008, county assessors will use the appropriate land and improvement secondary categories based on use. (3-30-07)

19. Secondary Category 45 - Utility System Land and Improvements. Locally assessed land and improvements used as utility systems and not under the jurisdiction of the State Tax Commission for appraisal. (3-30-07)

20. Secondary Category 46 - Manufactured Housing. Structures transportable in one (1) or more sections, built on a permanent chassis, for use with or without permanent foundation located on land under the same ownership as the manufactured home but assessed separate from the land. Include any manufactured home located on land under the same ownership as the manufactured home on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)

21. Secondary Category 47 - Improvements to Manufactured Housing. Additions not typically moved with manufactured housing. (3-30-07)

22. Secondary Category 48 - Manufactured Housing. Manufactured housing permanently affixed to land under the same ownership as the manufactured home and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)

23. Secondary Category 49 - Manufactured Housing. Manufactured housing permanently affixed to leased land and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)

24. Secondary Category 50 - Residential Improvements on Leased Land. Improvements used for residential purposes and located on leased land, including railroad rights-

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of-way under separate ownership, exempt land under separate ownership, or any other land under different ownership than the improvements. No later than January 1, 2008, county assessors will use this secondary category when the improvement is used for residential purposes and discontinue use of secondary categories 60, 61, and 62. (3-30-07)

25. Secondary Category 51 - Commercial or Industrial Improvements on Leased Land. Improvements used for commercial or industrial purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land under separate ownership, or any other land under different ownership than the improvements. No later than January 1, 2008, county assessors will use this secondary category when the improvement is used for commercial or industrial purposes and discontinue use of secondary categories 60, 61, and 62. (3-30-07)

26. Secondary Category 57 - Equities in Land With Improvements Purchased From the State. Land with the improvements on that land that are purchased from the state under contract. (3-30-07)

27. Secondary Category 60 - Improvements on Railroad Rights-of-Way. Improvements located on railroad rights-of-way under separate ownership. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)

28. Secondary Category 61 - Improvements by Lessee Other Than Secondary Category 62. Improvements made by the tenant or lessee to landlord's property. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)

29. Secondary Category 62 - Improvements on Exempt or Public Land. Taxable improvements, owned separately from exempt or public land on which they are located. No later than January 1, 2008, county assessors will use secondary category 50 when the improvement is used for residential purposes or will use secondary category 51 when the improvement is used for commercial or industrial purposes. (3-30-07)

30. Secondary Category 65 - Manufactured Housing. Manufactured housing not designated real property and located on exempt, rented or leased land under separate ownership. Include any manufactured home located on exempt, rented or leased land on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)

31. Secondary Category 69 - Recreational Vehicles. Unlicensed recreational vehicles. (3-30-07)

32. Secondary Category 81 - Exempt Improvements. Category 81 is for county use to keep an inventory of exempt improvements. (3-30-07)

33. Cross Reference. For descriptions of secondary categories used to list land values,

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see Rule 510 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules.
(3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 6082. (RESERVED).

603. PROPERTY EXEMPT FROM TAXATION – RELIGIOUS CORPORATIONS OR SOCIETIES (RULE 603).

Section 63-602B, Idaho Code.

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01. Valuing the Taxable Part of Qualifying Property. Under Section 63-602B(2), Idaho Code, a county shall determine the value of the part of the property used or leased for business or commercial purposes by considering the particular facts of each case, examining the amount of time, during the calendar year, the property is used for business or commercial purposes, the percentage of the property used for business or commercial purposes, or a combination thereof. The county may require reporting by the religious corporation or society of any use of the property for business or commercial usage in such form, and by such date, as the county establishes.

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02. Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code. To value the taxable part of any otherwise qualifying property exempt under Section 63-602B, Idaho Code, each county should use comparable methods to those being used to value the taxable part of qualifying exempt property under Section 63-602C, Idaho Code.

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604. -- 608. (RESERVED).

609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD (RULE 609).

Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code.

(3-30-07)

01. Homestead Exemption. The Homestead Exemption granted in 63-602G, Idaho Code shall also be known as the homeowner's exemption.

(3-30-07)

02. Idaho Annual Housing Price Index Change. Annually, the State Tax Commission shall calculate the maximum dollar-value limit for the homeowner's exemption based on the change in the Idaho annual housing price index published by the United States office of federal housing enterprise oversight. The following procedure shall be used:

(3-30-07)

a. Step 1. Calculate the average Idaho housing price index of the four (4) most recently available quarters as of September 15.

(3-30-07)

b. Step 2. Calculate the average Idaho housing price index of the four (4) quarters immediately preceding the earliest quarter used in Step 1.

(3-30-07)

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- c. Step 3. Divide the Step 1 average by the Step 2 average to determine a factor. (3-30-07)
- d. Step 4. Multiply the factor determined in Step 3 by the current maximum dollar-value limit on the homeowner's exemption to produce the new dollar-value limit. (3-30-07)

03. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption; however, the amount of the exemption shall be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. The proportional reduction shall not apply to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. For tenants in common with two (2) improvements located on one (1) parcel of land, determine the applicable value for the homeowner's exemption using the procedure shown in Example 1 of Paragraph 609.023.a., of this rule unless the owner-occupant provides documented evidence of a different ownership interest in the improvement. See Examples 2, 3, and 4 in Paragraphs 609.03.b., 609.03.c., and 609.03.d. of this rule for additional partial ownership guidance. To calculate property tax reduction benefits when partial ownership exists, see Paragraph 700.05.b., of these rules. (4-11-06)()

a. Example 1. John Smith and Bob Anderson own a property as tenants in common with two (2) residential improvements located on the property. Each residential improvement is owner occupied by one (1) of the tenants in common. The homeowner's exemption is calculated as follows:

Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Occupied by Mr. Smith
Prorated Ownership Interest (land and improvement)	\$62,000	Mr. Smith's interest
Homeowner's Exemption	\$31,000	For Mr. Smith as owner occupant
Residential Improvement	\$67,000	Occupied by Mr. Anderson
Prorated Ownership Interest (land and improvement)	\$54,500	Mr. Anderson's interest
Homeowner's Exemption	\$27,250	For Mr. Anderson as owner occupant

(3-30-07)

b. Example 2. John Smith and Bob Anderson own a parcel of land as tenants in common with two (2) residential improvements located on the parcel. Mr. Smith has documented evidence of one hundred percent (100%) interest in one (1) residential improvement and Mr. Anderson has documented evidence of one hundred percent (100%) interest in the remaining residential improvement. Each residential improvement is owner occupied. The homeowner's

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exemption is calculated as follows:

Item Description	Value	Notes
Land	\$42,000	
Residential Improvement	\$82,000	Owned and occupied by Mr. Smith
Homeowner's Exemption	\$51,500	For Mr. Smith
Residential Improvement	\$67,000	Owned and occupied by Mr. Anderson
Homeowner's Exemption	\$44,000	For Mr. Anderson

(3-30-07)

c. Example 3. Tom Johnson and Marie Johnson, husband and wife, and June Smith jointly own a property and occupy one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

<u>Description</u>	<u>Value</u>	<u>Notes</u>
<u>Land</u>	<u>\$95,000</u>	
<u>Residential Improvement</u>	<u>\$215,000</u>	
<u>Land and Improvement</u>	<u>\$310,000</u>	
<u>Prorated ownership interest (land and improvement) (\$310,000 X 66.67%)</u>	<u>\$206,677</u>	<u>Mr. & Mrs. Johnson's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 66.67%)</u>	<u>\$59,550</u>	<u>Mr. & Mrs. Johnson's Homeowner's Exemption</u>
<u>Prorated ownership interest (land and improvement) (\$310,000 X 33.33%)</u>	<u>\$103,323</u>	<u>Ms. Smith's interest</u>
<u>Homeowner's Exemption Maximum for 2007 (\$89,325 X 33.33%)</u>	<u>\$29,775</u>	<u>Ms. Smith's Homeowner's Exemption</u>

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d. Example 4. John and Susan Doe, husband and wife, and Mike Person jointly own a property, and Mr. and Mrs. Doe occupy the one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

<u>Description</u>	<u>Value</u>	<u>Notes</u>
<u>Land</u>	<u>\$65,000</u>	
<u>Residential Improvement</u>	<u>\$195,000</u>	
<u>Land and Improvement</u>	<u>\$260,000</u>	
<u>Prorated ownership interest (land and improvement) (\$260,000 X 66.67%)</u>	<u>\$173,342</u>	<u>Mr. & Mrs. Doe's interest</u>

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Description	Value	Notes
<u>Homeowner's Exemption (Maximum for 2007 is 50% up to \$89,325)</u>	<u>\$86,671</u>	<u>Mr. & Mrs. Doe's Homeowner's Exemption</u>
<u>Prorated ownership interest (land and improvement) (\$260,000 X 33.33%)</u>	<u>\$86,658</u>	<u>Mr. Person's interest</u>
<u>Homeowner's Exemption</u>	<u>\$0</u>	<u>Mr. Person does not qualify for a homeowner's exemption on this property.</u>

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04. Determination of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county Board of Equalization for the sole purpose of providing one (1) indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (4-11-06)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (RULE 610).

Section 63-602G, Idaho Code.

(4-5-00)

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.023 of these rules. (~~3-15-02~~)()

03. Dual Residency Couples -- General Principles.

(7-1-99)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection 609.023 of these rules. (~~3-15-02~~)()

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an

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exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest.

(3-15-02)

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07.

(3-15-02)

04. Example -- Both Residences are Community Property.

(7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides.

(7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify.

(3-15-02)

05. Example -- One Residence Is Community Property, the Other Is Separate Property.

(7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides.

(7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify.

(3-15-02)

06. Example -- Both Residences are Separate Property.

(7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or

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her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment of Homeowner's Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement shall be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties shall not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: (7-1-99)

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to two-thirds (2/3) of the value of the improvement. (3-15-02)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to one-third (1/3) of the value of the improvement. (3-15-02)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to two-thirds (2/3) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The two-thirds (2/3) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Subsection 610.03.c. (3-15-02)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's

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exemption under the dual residency couple rules set out in Subsections 610.02. through 610.07.
(3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (RULE 645).
Section 63-604, Idaho Code. (3-15-02)

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated Site Improvements. The “associated site improvements” include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. Nursery Stock. Nursery stock is defined in Section 22-2302, Idaho Code. (3-15-02)

d. Land Used to Produce Nursery Stock. “Land used to produce nursery stock” means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. (3-15-02)

e. Speculative Value Exemption. The “speculative value exemption” is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (7-1-99)

a. Accepted Assessment Procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential

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residential use.

(7-1-99)

c. Assigning secondary category. ~~The value of~~ List and report the secondary category for the homesite ~~will be listed in Category 10~~ using the chart in Subsection 645.02.c..

Description of Land	Secondary Category
<u>Rural and Nonsubdivided</u>	<u>10</u>
<u>Rural and Subdivided</u>	<u>15</u>
<u>Urban</u>	<u>20</u>

~~(7-1-99)~~()

d. Homesite Independent of Remaining Land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Land, Excluding the Homesite. The assessor shall value land, excluding the homesite, on the following basis: (5-3-03)

a. Land Used for Personal Use or Pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a for profit enterprise, shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption. (4-11-06)

b. Land in a Subdivision. Land in a subdivision with restrictions prohibiting agricultural use shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption but may qualify for the exemption under Section 63-602FF, Idaho Code. Land meeting the use qualifications identified in Section 63-604, Idaho Code, and in a subdivision without restrictions prohibiting agricultural use shall be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision. (4-11-06)

c. Land, Five (5) Contiguous Acres or Less. Land of five (5) contiguous acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule, and shall not qualify for the speculative value exemption. If the owner produces evidence that each contiguous holding of land under the same ownership has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall qualify for the speculative value exemption. For holdings of five (5) contiguous acres or less income is measured by production of crops, nursery stock, grazing, or net income from sale of livestock. Income shall be estimated from crop prices at harvest or nursery stock prices at time of sale. The use of the land and the income received in the prior year must be certified with the assessor by March 15, each year. (4-11-06)

d. Land, More Than Five (5) Contiguous Acres. Land of more than five (5)

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contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, or grazing, or in a cropland retirement or rotation program, as part of a for profit enterprise, shall qualify for the speculative value exemption. Land not annually meeting any of these requirements fails to qualify as land actively devoted to agriculture and shall be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule. (4-11-06)

04. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (RULE 700).

Section 63-701, Idaho Code. (3-15-02)

01. Blind. A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code. (3-30-01)

02. Burden of Proof. See Rule 600 of these rules. (3-15-02)

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. (3-30-07)

a. An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: (3-30-07)

- i. The annuity must not be part of any pension plan available to an employee; (3-30-07)
- ii. No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income); (3-30-07)
- iii. The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (3-30-07)
- iv. Earnings from investments in the annuity must be tax-deferred prior to withdrawal. (3-30-07)

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer provided pensions, and similar financial instruments. Life insurance premiums shall not

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be treated as the principal of an annuity. (3-30-07)

c. The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (3-30-07)

04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased. (3-30-01)

05. Proportional Reduction of Value. Proportional reduction of value pursuant to Section 63-701(7), Idaho Code, is required for partial ownership of otherwise eligible property. (3-15-02)

a. There is no reduction of value for community property with no other interests except as provided in Rules 610.07 and 709.04 of these rules. Additionally, there is no reduction in value for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying the market value of the land and of the improvement times the claimant's percent of ownership and subtracting the claimant's homeowner's exemption. ~~For example:~~ (3-30-07)()

i. Example 1. The claimant is the sole occupant of the property but only owns fifty percent (50%) of the property. In this example, the claimant's property tax reduction benefit will be applied to the tax on his/her net taxable market value of \$50,000.

Land Market Value	\$50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value & Improvement Market Value (Land Market Value & Improvement Market Value x Percentage of Ownership)	\$100,000
Claimant's Homeowner's Exemption (Claimant's Share of Improvement and Land Market Value x 50%, (not to exceed \$75,000 89,325 for 20067)	<\$50,000>

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Claimant's Eligible Net Taxable Value equals	
Claimant's Share of Market Value less Homeowner's Exemption	\$50,000
(\$100,000 - \$50,000 = \$50,000)	

(~~3-30-07~~)()

ii. Example 2. Tom Johnson and Marie Johnson, husband and wife, and property tax reduction claimant June Smith jointly own a property and occupy one (1) residential improvement located on the property. Calculate both homeowners' exemptions, and apply Ms. Smith's property tax reduction benefit to the tax on the net taxable value of her interest in the property.

Description	Value	Notes
Land	\$95,000	
Residential Improvement	\$215,000	
Land and Improvement	\$310,000	
Prorated ownership interest (land and improvement) (\$310,000 X 66.67%)	\$206,677	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum for 2007 (\$89,325 X 66.67%)	\$59,550	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) (\$310,000 X 33.33%)	\$103,323	Ms. Smith's interest
Homeowner's Exemption Maximum for 2007 (\$89,325 X 33.33%)	\$29,775	Ms. Smith's Homeowner's Exemption
Value of prorated interest less homeowner's exemption.	\$73,548	Ms. Smith's property tax reduction benefit is applied to the tax on the net taxable value.

()

06. Physician. Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. (3-30-01)

07. Widow/Widower. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. (3-15-02)

08. Cross Reference. See Chapter 79, Title 67, Idaho Code, for requirements relating to lawful presence in the United States. ()

701. HOW TO VERIFY THAT CLAIMANTS ARE LAWFULLY PRESENT IN THE UNITED STATES (RULE 701).

Sections 63-701 through 710 and Sections 67-7901 through 7903, Idaho Code. ()

01. Lawful Presence in the United States. The county assessor shall verify that any claimant who is eighteen (18) years of age or older is lawfully present in the United States before approving the claimant for property tax reduction pursuant to Sections 63-701 through 710, Idaho Code, by doing the following: ()

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a. Providing to the State Tax Commission electronically and by paper copies documentation verifying that the claimant's name, social security number, and date of birth used for social security records of the claimant and the claimant's spouse, if married, are correct. Examples of documentation that would verify that the information is correct include, but are not limited to the following: ()

i. Federal Form W-2; ()

ii. Federal Form 1099; ()

iii. Form 1099 received by the claimant from the Social Security Administration or the Railroad Retirement Board, or the federal Personnel Management System; ()

iv. Social Security Card; ()

v. Birth Certificate; or ()

vi. Documents listed under paragraph 701.01.b. of this rule. ()

b. If the claimant or the claimant's spouse, if married, is not currently receiving benefits from the Social Security Administration, the Railroad Retirement Board, or the federal Personnel Management System, then requiring the claimant to submit the following, a copy of which shall be attached to the application for property tax reduction: ()

i. An Idaho driver's license or an Idaho identification card issued pursuant to Section 49-2444, Idaho Code; or ()

ii. A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or the claimant's age, sex, race, height, weight, or other such personal identifying information relating to the individual sufficient to show that the individual is the person identified in the other state or territory of the United States driver's license or similar identification document; or ()

iii. A United States military card or a military dependent's identification card; or ()

iv. A United States coast guard merchant mariner card; or ()

v. A Native American tribal document; or ()

vi. A valid United States passport. ()

c. Attestation of Lawful Presence. In addition to the documentation provided in Paragraphs 701.01.a. and 701.01.b. of this rule the claimant is also required to attest, under penalty of perjury and on a form designated by the State Tax Commission, that; ()

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- i. The social security number(s) provided is/are valid; and ()
- ii. The claimant and the claimant's spouse, if married, are United States citizens or legal permanent residents; or ()
- iii. The claimant and the claimant's spouse, if married, are otherwise lawfully present in the United States pursuant to federal law. ()
- d. Audit. During audit the State Tax Commission shall: ()
 - i. Verify the claimant's and the claimant's spouse's, if married, social security number(s) electronically with the Social Security Administration or through other appropriate governmental agencies or means. ()
 - ii. Presume the attestation to be proof of lawful presence for purposes of this section until such verification of lawful presence is made. ()
- e. Successive Applications. Once a claimant and the claimant's spouse, if married, have been verified as lawfully present in the United States pursuant to this rule, a claimant and the claimant's spouse, if married, in successive years will be presumed to be lawfully present in the United States if the claimant and the claimant's spouse, if married, continue to attest in each successive application that no change has occurred in their status. ()

~~7042.~~ -- 708. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

717. PROCEDURE AFTER CLAIM APPROVAL (RULE 717).

Sections 63-115 and 63-707, Idaho Code.

(3-30-07)

01. Formatting Requirements. The property tax reduction roll shall be formatted as required by Section 63-707, Idaho Code. (3-30-01)

02. Preliminary Property Tax Reduction Roll. The roll, certified by the assessor to the county auditor and the State Tax Commission by the fourth Monday in June, shall be termed the preliminary property tax reduction roll. The preliminary property tax reduction roll shall list property tax reduction claimants in alphabetical order unless the State Tax Commission grants permission for claimants to be listed in an alternate order. Each original claim form shall be submitted to the State Tax Commission in the same order as shown on the preliminary property tax reduction roll. (3-30-01)

03. Final Property Tax Reduction Roll. The completed property tax reduction roll, certified by each county clerk to the State Tax Commission by the fourth (4th) Monday in October, shall be termed the final property tax reduction roll. The final property tax reduction roll shall list property tax reduction claimants in the same order as shown on the preliminary property

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tax reduction roll, except that all fully disapproved claimants shall be deleted and not shown on the final property tax reduction roll. Erroneous claims which are partially disapproved by the State Tax Commission shall be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor pursuant to Section 63-707(6), Idaho Code, termed county change letter. (3-30-01)

04. Certification of Electronic Property Tax Reduction Roll by County Assessor.

After approval of the claims by the county board of equalization but no later than the fourth Monday in June, each county assessor will certify the property tax reduction roll to the county auditor and send a copy to the State Tax Commission. In addition, each county assessor will also send a copy of this certified roll to the State Tax Commission in a password protected electronic data file formatted as directed or approved by the State Tax Commission. Each county assessor will contact the State Tax Commission to receive a password. This password protected electronic roll will contain the following information: (3-30-07)

- a. Claimant's Social Security Number. List the claimant's social security number. (3-30-07)
- b. Claimant's Date of Birth. List the claimant's date of birth. (3-30-07)
- c. Claimant's Last Name. List the claimant's last name. (3-30-07)
- d. Claimant's First Name. List the claimant's first name. (3-30-07)
- e. Spouse's Social Security Number. List the social security number for the spouse of the claimant. (3-30-07)
- f. Spouse's Date of Birth. List the date of birth for the spouse of the claimant. (3-30-07)
- g. Spouse's Last Name. List the last name for the spouse of the claimant. (3-30-07)
- h. Spouse's First Name. List the first name for the spouse of the claimant. (3-30-07)
- i. Claimant's Telephone Number. List the claimant's telephone number. (3-30-07)
- j. Claimant's Address. List the claimant's address. (3-30-07)
- k. Claimant's City. List the city where the claimant lives. (3-30-07)
- l. Claimant's State. List the postal abbreviation for the state where the claimant lives. (3-30-07)
- m. Claimant's Zip Code. List the claimant's zip code. (3-30-07)
- n. Claimant's Parcel Number(s). List the parcel number for the property on which the claimant is receiving the homeowner's exemption. When more than one (1) parcel owned by the claimant is eligible, list all eligible parcel numbers. (3-30-07)

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- o.** Year. List the current year. (3-30-07)
- p.** Claimant's County Number. List the number of the county where the claimant lives. (3-30-07)
- q.** Term of Direct Address. List the appropriate term of direct address; that is, "Mr.," "Ms.," or "Mr. & Mrs." (3-30-07)
- r.** Income Data. List income data. (3-30-07)
- s.** Identify New Applicants. Identify claimants who are applying for this benefit for the first time. (3-30-07)
- t.** Value. List the best estimate for each secondary category of current market value and prorated net taxable value. (3-30-07)
- u.** Maximum Benefit. The program will automatically show the maximum benefit for which the claimant is eligible based on income. (3-30-07)
- v.** Qualifying Criteria. Identify all of the following criteria that the claimant meets. (3-30-07)

 - i. Sixty-five (65) years old or older. (~~3-30-07~~)()
 - ii. Blind. (3-30-07)
 - iii. Disability granted by the Social Security Administration, Railroad Retirement Board, or federal civil service. (3-30-07)
 - iv. Orphan, under eighteen (18) years of age. (3-30-07)
 - v. Prisoner of war or hostage, certified by Veteran's Affairs. (3-30-07)
 - vi. Nonservice connected disability or service connected disability at ten percent (10%) to thirty percent (30%), certified by Veteran's Affairs. (3-30-07)
 - vii. Service connected disability at forty percent (40%) or more, certified by Veteran's Affairs. (3-30-07)
 - viii. Widow or widower, include date of spouse's death. (3-30-07)
 - ix. Whether the claimant is lawfully present in the United States. ()

05. Certification of Completed Electronic Property Tax Reduction Roll by County Auditor. No later than the fourth Monday in October, each county auditor will certify the property tax reduction roll to the State Tax Commission. In addition, each county auditor will also send a copy of this certified roll to the State Tax Commission in a password protected electronic

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data file formatted as directed or approved by the State Tax Commission. Each county auditor will contact the State Tax Commission to receive a password. In addition to the data files listed in Paragraphs 717.01.a. through 717.01.v. of this rule, this password protected electronic roll will contain the following information formatted as directed or approved by the State Tax Commission. (3-30-07)

a. Current Year's Levy. List the current year's levy for the tax code area where each claimant's property is located. (3-30-07)

b. Current Year's Taxable Value. List the current year's taxable value for each claimant's qualifying property. (3-30-07)

c. Claimed Property Tax Reduction Amount. List for each claimant the amount of property tax reduction claimed based on the current year's levy and the current year's eligible taxable value. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

804. TAX LEVY -- CERTIFICATION -- URBAN RENEWAL DISTRICTS (RULE 804). Section 63-803, Idaho Code. (____)

01. Definitions. (4-5-00)

a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. Revenue allocation areas (RAAs) are not taxing districts. (4-5-00)

c. "Current base value." The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code. Current base value does not include value found on the occupancy roll. (4-5-00)

d. "Initial base value." The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. (4-5-00)

e. "Increment value." The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel's current base value, provided such difference is a positive value. (4-5-00)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0702
PENDING RULE

a. Establishing initial base value. If a parcel's legal description has changed prior to computing initial base year value, the value that best reflects the prior year's taxable value of the parcel's current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll.

(4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel's initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000).

(4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel.

(4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000).

(4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000).

(4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment shall be calculated as described in the following subsections.

(4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value.

(4-5-00)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together.

(4-5-00)

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0702
PENDING RULE

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subsection 804.02.c.i. and then the value of the combination will be calculated as set forth in Subsection 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel at the time the RAA was established. (4-5-00)

ii. Partially exempt parcels. When a partially exempt parcel within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that if this parcel had not been actively devoted to agriculture at that time, the taxable value would have been fifteen hundred dollars (\$1500). After five (5) years, this parcel is no longer used for farming, loses its partial exemption, and becomes reclassified as industrial land with a value of ten thousand dollars (\$10,000). The base value within the RAA would be adjusted upwards by one thousand dollars (\$1,000), the difference between fifteen hundred dollars (\$1500) and five hundred (\$500). (4-5-00)

iii. Change of exempt status. When a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the original value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by twenty thousand dollars (\$20,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by twenty thousand dollars (\$20,000). (4-5-00)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

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IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

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PENDING RULE

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA. (4-5-00)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to increment values. Decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (4-5-00)

g. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. The property tax levy for any taxing district or unit which includes all or part of an RAA in an urban renewal district shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the taxing district or unit by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's budget by eighty-five million dollars (\$85,000,000). (4-5-00)

04. Modification of an Urban Renewal Plan. When an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, the current value of property in the RAA shall be determined as if the modification had not occurred. All modifications to urban renewal areas and RAAs must comply with the provisions of Rule 225 of these rules. (4-5-00)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (4-5-00)

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0702
PENDING RULE

~~05. Allocation to School Districts. In the case of school districts, the budget limited by Section 63-802, Idaho Code, shall not include the allocation pursuant to Section 50-2908, Idaho Code. Said allocation shall be computed for any school district by multiplying the school district's urban renewal increment as defined in Rule 329 of these rules by four tenths of one percent (0.4%) pursuant to Section 33-1002, Idaho Code. (4-5-00)~~

~~065. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule 63995 of these rules. (4-5-00)()~~

805. PENALTY FOR FAILURE TO PROVIDE NOTICE OF BUDGET HEARING (RULE 805).

Section 63-802A, Idaho Code. (3-15-02)

01. Penalties for Noncompliance. Effective January 1, 2003, penalties shall be applied to any taxing district that fails to provide each appropriate county clerk with written notification of the budget hearing information required pursuant to Section 63-802A, Idaho Code. ~~The penalties provided by this section apply only to failure to comply with the April 30 notification deadline. (3-15-02)~~

~~a. Noncomplying Nonschool Districts. There shall be no increase in the portion of the budget subject to the limitations of Section 63-802, Idaho Code. This restriction shall apply to otherwise available budget increases from the three percent (3%) growth factor, new construction or change of land use classification, and annexation. There shall also be no increase resulting from adding previously accrued foregone increase amounts to the budget and the total accrued foregone amount shall not change for a noncomplying district. The penalties provided by this section apply only to failure to comply with the April 30 notification deadline. (3-15-02)()~~

~~b. Noncomplying School Districts. The maintenance and operation portion of the budget is the portion that shall not increase. School tort and tuition funds shall be permitted to increase, subject to the limitations of Section 63-802, Idaho Code. (3-15-02)~~

02. Exceptions. Voter approved budget increases permitted pursuant to Section 63-802(4), Idaho Code, shall be allowed. (3-15-02)

03. County Clerks to Submit Lists. By the fourth Monday of May, each county clerk shall submit to the State Tax Commission a list of noncomplying taxing districts along with other documents required pursuant to Rule 803 of these rules and Section 63-808, Idaho Code. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

~~808.—901.~~ (RESERVED).

809. CORRECTION OF ERRONEOUS LEVY (RULE 809).

Sections 63-809 and 63-810, Idaho Code. ()

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0702
PENDING RULE

01. Errors Discovered by the Fourth Monday in October. When the State Tax Commission receives by the fourth Monday in October from a board of county commissioners notice of corrections for unintentional clerical, mathematical, or electronic errors under Section 63-810, Idaho Code, the State Tax Commission shall make the corrections to any approved levies by the fourth Monday in October. ()

02. Errors Discovered After the Fourth Monday in October. When the State Tax Commission receives after the fourth Monday in October and prior to the following January 30 notices of corrections for any unintentional errors, as referenced in Subsection 809.01 of this rule, the State Tax Commission shall make the corrections and approve the appropriate corrected levies within one (1) week. ()

03. Cross Reference. For information on reporting of corrections for unintentional clerical, mathematical, or electronic errors, see Sections 63-809 and 63-810, Idaho Code, and Rule 509 of these rules. ()

810. (RESERVED).

811. COMPUTATION OF PROPERTY TAXES (RULE 811).
Section 63-811, Idaho Code. ()

01. Duty of the County Auditor. Upon distribution of the approved final levy rates for the current year from the State Tax Commission by the fourth Monday in October, the county auditor shall deliver the final levy rates and the total tax charge for each taxing district or unit that is levying for the current year within the county to the county treasurer by the first Monday in November for the property roll and operating property roll, by the first Monday in December for the subsequent property roll, and by the first Monday in March of the following year for the missed property roll. ()

02. Duty of the County Treasurer. Upon receipt of the final levy rates and total tax charge for each taxing district or unit, the county treasurer shall compute the individual tax charge for each taxable property in the county and prepare and mail the property tax bill for each taxable property according to Section 63-902, Idaho Code, and Rule 902 of these rules. ()

812. -- 901. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

966. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER SECTION 63-1706, IDAHO CODE (RULE 966).
Section 63-1703, Idaho Code. ()

01. Ownership Interest/Deferred Taxes. Where forestland is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes shall occur when any one (1) of the legal entities holding an ownership interest in the subject property shall convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership shall subject the entire parcel to recapture of deferred taxes, unless the new owner timely

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0702
PENDING RULE

redesignates their ownership interest under Section 63-1706, Idaho Code. (7-1-97)

02. Deferred Tax Responsibility. Deferred taxes shall be the responsibility of the selling landowner. Deferred taxes shall constitute a lien on the land. (3-30-01)

03. Change in Use/Deferred Taxes. Forestlands designated under Section 63-1706, Idaho Code, and subsequently removed from the designation by change in use with no ownership transfer to any ~~taxing-category~~ use other than designation under Section 63-1705, Idaho Code, shall cause a recapture of deferred taxes calculated in the following manner: ~~(3-30-01)~~(____)

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

04. Transfer of Ownership/Deferred Taxes. Forestland designated under Section 63-1706, Idaho Code, upon transfer of ownership or removal to designation under Section 63-1705, Idaho Code, shall be subject to a recapture of deferred taxes calculated in the following manner: (3-30-01)

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, for the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

05. Investment Lands. Investment lands are defined as those in secondary categories 1, 2, 3, 4, 5, and 9, as defined in Rule ~~430~~ 510 of these rules. ~~(3-30-01)~~(____)

HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.09 - IDAHO KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 23-1323 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 368 and 369.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

STATE TAX COMMISSION
Kitchen and Table Wine Tax Administrative Rules

Docket No. 35-0109-0701
PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 23-1323.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 013: Change the word “wholesaler” to the statutorily defined term “distributor” and the words “unfit for beverage purposes” to “unfit for sale.”

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

013. BREAKAGE OR SPOILAGE (RULE 013).

HOUSE REVENUE & TAXATION COMMITTEE

STATE TAX COMMISSION Kitchen and Table Wine Tax Administrative Rules

Docket No. 35-0109-0701
PENDING RULE

01. Damage or Spoilage. When a wine container has been damaged or when wine becomes spoiled or has otherwise become unfit for ~~beverage purposes~~ sale, the ~~wholesaler distributor~~ may claim a deduction of up to seventy-five one hundredths of one percent (.75%) of the total inventory purchases during the month in which the breakage or spoilage occurred without requiring written approval from the Tax Commission. The taxpayer must maintain adequate records to verify actual breakage or spoilage claimed. (7-1-93)()

a. The Commission may at any time disallow the use of this method for any taxpayer. The Commission shall notify the taxpayer in writing that future destructions of breakage or spoilage will require written approval from the Commission. (7-1-93)

b. Any taxpayer who has received such written notice from the Commission must file a Request for Wine Destruction, Form WB-403, as set forth in Subsection 013.02 of this rule. (7-1-93)

02. Request for Wine Destruction. If the breakage or spoilage exceeds seventy-five one hundredths of one percent (.75%) of the total inventory purchases for the month, or the taxpayer has received written notice as discussed in Subsection 013.01.a. of this rule, the taxpayer must file a Request for Wine Destruction, Form WB-403, with the Commission ten (10) days prior to the proposed destruction date. (7-1-93)

a. The taxpayer must receive written approval from the Commission prior to destruction of any products referred to on the request. (7-1-93)

b. The Commission reserves the right to be present to observe the destruction of the wine and further reserves the right to delay the destruction until such time as ~~a mutual~~ an appointment can be arranged for the Commission or its representative to witness such destruction. (7-1-93)()

c. A credit for the amount of tax represented by the destroyed wine may be claimed by the taxpayer who has received written approval from the Commission to destroy unfit wine. (7-1-93)

HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-2501, and 63-2553, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 372 through 374.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of October, 2007.

Jim Husted
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
Idaho Cigarette and Tobacco Tax Administrative Rules

Docket No. 35-0110-0701
PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, 63-2501, and 63-2553.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 010 adds a definition of “person” to the cigarette and tobacco tax rules that is similar to the definition in the Sales Tax Act in Section 63-3607, Idaho Code.

Rules 013 and 014 both use the word “indicia” in reference to “cigarette tax stamps.” The amendment changes the word “indicia” to “stamps.”

Rule 022 should refer only to cigarettes for which a credit may be claimed. Paragraph 022.01.d. describes required documentation. The amendment reformats subsection 022.01.d. into a separate subsection 022.02.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
Idaho Cigarette and Tobacco Tax Administrative Rules

Docket No. 35-0110-0701
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS (RULE 010).

01. Distributor. The term distributor, as defined by Section 63-2551, Idaho Code, includes persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

02. Manufacturer. The term manufacturer means a person who manufactures and sells cigarettes. The term manufacturer, as defined by Section 63-2551, Idaho Code, does not include persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

03. Person. The term “person” includes any individual, firm, partnership, LLC, venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit. ()

(BREAK IN CONTINUITY OF SECTIONS)

013. SHIPMENTS IN INTERSTATE COMMERCE (RULE 013).

Sales of cigarettes in the course of interstate commerce for purposes of Section 63-2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations. (5-3-03)

01. Types of Conveyances. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler’s business, or by common carrier hired by the wholesaler. (7-1-93)

a. In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler’s place of business for three (3) years. (7-1-93)

b. In the case of shipments by the wholesaler’s conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver’s representative and the wholesaler’s employee making such delivery. Receipts must be serially numbered. (7-1-93)

02. Records of Unstamped Deliveries. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without a state tax ~~indicia~~ stamps of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule. (7-1-93)()

014. SHIPMENTS DELIVERED ON INDIAN RESERVATIONS (RULE 014).

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION Idaho Cigarette and Tobacco Tax Administrative Rules

Docket No. 35-0110-0701
PENDING RULE

01. Shipments Without Idaho ~~Indicia~~ Stamps. Cigarette wholesalers may deliver cigarettes which do not have Idaho ~~indicia~~ stamps affixed to Idaho Indian reservations when:

(7-1-93)()

- a. The purchaser is an enrolled member of an Idaho Indian tribe. (7-1-93)
- b. The purchaser is a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe. (7-1-93)
- c. The purchaser is a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Reservation Means Lands Which Are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; or established by formal decision of the Executive Branch of the United States. (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 014.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

03. Sales of Cigarettes to Non-Indians Within Reservation Boundaries. Sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must have Idaho cigarette ~~indicia~~ stamps affixed. (7-1-93)()

04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell cigarettes upon which Idaho cigarette indicia has not been affixed. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

022. EXEMPTIONS (RULE 022).

01. Credit for Taxes Paid. Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are: (7-1-93)

- a. Sold and delivered to retailers at locations outside the state of Idaho; (5-3-03)
- b. Sold and delivered to the United States Government on U.S. Military reservations located within Idaho; (7-1-93)
- c. Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business

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enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

022. **Documentation.** Distributors must maintain adequate records to show the validity of credits claimed under this subsection, including delivery records and invoices. If the distributor is selling to an enrolled member of an Indian tribe he should keep a copy of the purchaser's tribal identification card in his files. If he is selling to a tribally owned entity, he should keep a certificate of tribal ownership or some other form of clear and convincing evidence that the purchaser is a business wholly owned and operated by an Idaho Indian tribe. (~~3-30-07~~)()

023. **Indian Reservations.** Indian reservation means lands which are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; established by formal decision of the Executive Branch of the United States; or (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 022.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

034. **Non-Indian Enterprises.** Tobacco distributors may not claim a credit for taxes paid on tobacco products sold to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation. (7-1-93)

045. **Non-Indian Retailers.** Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell tobacco products upon which tobacco products tax has not been paid. (7-1-93)

HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 23-1323 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 370 and 371.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted (208) 334-7530.

DATED this 1st day of November, 2007.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
Idaho Unclaimed Property Administrative Rules

Docket No. 35-0111-0701
PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 23-1323.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 010: For the purposes of the Unclaimed Property Act, the words “tax” and “return” in the income tax administrative statutes mean “unclaimed property” and “report of unclaimed property.”

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS (RULE 010).

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Idaho Unclaimed Property Administrative Rules

Docket No. 35-0111-0701
PENDING RULE

01. Credit Memo. Credit Memo shall include all types of refunds and credit balances unless specified elsewhere in Title 14, Chapter 5, Idaho Code. (7-1-93)

02. Owner. Owner includes a depositor in case of a deposit; a beneficiary or insured in case of a trust, an insurance policy or an annuity policy; the purchaser in case of travelers checks and money orders; a creditor, claimant, or payee in case of other instruments; and any other person having a legal or equitable interest in property subject to the Unclaimed Property Act. (7-1-93)

03. Return and Tax. Section 14-532, Idaho Code, incorporates several statutes from Title 63, Chapter 30, Idaho Code, into the Unclaimed Property Act. The words “return” and “tax” from Title 63, Chapter 30, Idaho Code, when applied to the Unclaimed Property Act shall be defined as follows: ()

a. The word “return” shall mean the report required by Section 14-517, Idaho Code. ()

b. The word “tax” shall mean property presumed abandoned as described by Section 14-502, Idaho Code. ()

HOUSE REVENUE & TAXATION COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 375 and 376.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7530.

DATED this November 1, 2007.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

HOUSE REVENUE & TAXATION COMMITTEE

IDAHO STATE TAX COMMISSION
Tax Commission Administration and Enforcement Rules

Docket No. 35-0201-0701
PENDING RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 155: Amend Administration and Enforcement Rule 155 to remove references to code sections that are no longer applicable.

Rule 310: Idaho Code section 63-3045 establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds. The rates are published in Administration and Enforcement Rule 310. Amend Administration and Enforcement Rule 310 to add the interest rate for calendar year 2008.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 17th day of August, 2007.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

HOUSE REVENUE & TAXATION COMMITTEE

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PENDING RULE

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (RULE 155).

Sections 63-115, 63-3039, and 9-328, ~~67-2351 through 67-2357~~, Idaho Code. (7-1-99)()

01. Tax Returns Filed Electronically. Pursuant to Section 63-115, Idaho Code, a taxpayer may file a tax return with the Tax Commission electronically only when the Tax Commission has established and implemented procedures permitting electronic filing of a specific tax return. A return may only be filed electronically by using the procedures and formats established by the Tax Commission for the particular return. (7-1-99)

02. Signatures. See Rule 150 of these rules. (7-1-99)

03. Acknowledgment of Data Transmissions. Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible or garbled form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

310. INTEREST RATES (RULE 310).

Sections 63-3045 and 63-3073, Idaho Code. (3-20-04)

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code. (4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49

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PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
<u>Calendar Year 2008</u>	<u>7% simple interest</u>	<u>Revenue Ruling 2007-57</u>

(~~3-30-07~~)()